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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 769 (AJN)

5 YURI LEBEDEV and TREVON GROSS,

6 Defendants.

Jury Trial

7 -----x

8 New York, N.Y.
9 February 23, 2017
9:10 a.m.

10 Before:

11 HON. ALISON J. NATHAN,

12 District Judge
13 And A Jury

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

BY: EUN YOUNG CHOI

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24 BY: KRISTEN M. SANTILLO

25 BY: HENRY E. KLINGEMAN

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(In open court; jury not present)

THE COURT: Good morning.

COUNSEL: Good morning, your Honor.

THE COURT: Matters to take up?

MS. CHOI: Your Honor, briefly. If your Honor recalls, in our WhatsApp deliberations and conference, there was an issue that arose with regard to statements that Mr. Gross made in a conversation with Anthony Murgio regarding certain groups within Lakewood.

THE COURT: Yes.

MS. CHOI: We have a proposed redacted version that we shared with defense counsel. What we would propose, I think, makes the point that we would like to make, but is neutral with regard to referencing specific ethnic groups.

THE COURT: Okay. I'll take a look.

MS. CHOI: If the Court would indulge me on relevance, once you have a moment, of why we think this is material evidence.

THE COURT: Okay. Go ahead.

MS. CHOI: Your Honor, the defense opened with a theory that this was a small credit union for which Mr. Gross was trying to grow, and one of the many things that was important to Mr. Gross was growth of the membership, the number of people who actually joined the credit union. This is excellent evidence, in the government's opinion, that, in fact,

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1 that wasn't true. Mr. Gross wasn't -- his priority concern was
2 not growing the membership of the credit union. In fact, he
3 was very concerned about one particular group of individuals in
4 this case, the Jewish population, taking over control of the
5 credit union, so that he wanted to go after another group.

6 And I think the redactions that we propose makes
7 neutral and hides the fact of what sort of group of people they
8 are. It just makes clear that there is one group of people
9 that he does not want into the credit union, because they will
10 take over the credit union, but there are other people that
11 they are willing to enter in. And I think it's an important
12 point because it emphasizes the fallacy of this assumption that
13 with regard to good faith, that Mr. Gross was working and
14 trying to do everything he could to grow this credit union. In
15 fact, he cared deeply about maintaining control over the credit
16 union, and even though there was an ample group of individuals
17 who could add assets and open share accounts, he did not want
18 that to happen.

19 So that's why we would propose this. It eliminates
20 all reference to the types of groups. We got rid of the -- if
21 you recall, there was a discussion about I can salsa in
22 reference to the Latino population, which is the group that
23 Mr. Gross preferred over the Jewish population of Lakewood. We
24 eliminated all of that. It could be any -- it makes clear that
25 there are two groups of people, one he prefers and one he does

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1 not. It could be any group of people. It could be older
2 people, younger people. I think it makes neutral what group of
3 people it is.

4 THE COURT: All right.

5 MS. SANTILLO: Your Honor, the relevance here is, I
6 think, zero, and the prejudice is extraordinary, and I think
7 that it should be excluded altogether. The redactions only
8 suggest that there is some sort of ethnic population that is
9 targeted here, and it's totally -- it has zero relevance to --

10 THE COURT: Why does it suggest an ethnic population?

11 MS. SANTILLO: I think if you read it in context,
12 that's what it -- "They run Lakewood."

13 THE COURT: I wonder if we could get rid of that line,
14 "They run Lakewood" line, just because I think that might cause
15 someone to speculate in the way Ms. Santillo is suggesting.
16 I'm not sure otherwise it's there. Just so we're talking about
17 the same thing, what do you say?

18 MS. CHOI: Yes, your Honor. If we just got rid of the
19 portion on line just to be clear for the record, PK3906, just
20 the part that says "They run Lakewood," we'd be happy with
21 that.

22 THE COURT: So it would say, "So many blank people
23 here crazy," next line "Yes," next line, "It's the craziest
24 thing. I know a possible approach for membership, but then
25 they could take over. We can speak about it." Next line,

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1 "They will take over. We need to go after blank population,"
2 and then that's the end.

3 MS. CHOI: Yes, your Honor, no reference to salsa.

4 MS. SANTILLO: Your Honor, the phrase population still
5 suggests that it's going after a specific targeted group, and I
6 think that the fact that they are trying to add members from
7 any population goes against whatever inference it is that the
8 government is trying to offer. They're trying to get members.
9 So what they're saying doesn't even make logical sense.

10 THE COURT: Well, I disagree with you, with this
11 redaction, that there is some -- it could literally mean
12 anything. I don't think it causes one to speculate as to an
13 ethnic population as opposed to, who knows, a specific
14 geography or the like. I agree with you that with the "They
15 run Lakewood," that that might cause people to speculate, but
16 I'm not seeing it without that.

17 MS. SANTILLO: I think there is a lot of suggestive
18 things, this kind of people here crazy, population.

19 THE COURT: That's just talking about people and
20 population.

21 MS. SANTILLO: Yeah.

22 THE COURT: I understand the government's argument for
23 relevance. And with the redactions we've discussed, I don't
24 see the prejudice. So, with the additional redaction, I will
25 allow it.

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1 MS. CHOI: Thank you, your Honor.

2 MR. NOBLE: Just a couple of other things to note,
3 your Honor.

4 I conferred with Mr. Klingeman regarding the evidence
5 regarding the payment of legal fees.

6 THE COURT: Yes.

7 MR. NOBLE: And I think we're going to be able to come
8 to some resolution. We're going to work out some alternative
9 language that would be acceptable to the defense, but still get
10 in the evidence that these payments occurred. So the parties
11 are going to work on that.

12 I don't expect that evidence to come in until late
13 next week, but more likely, early the following week, so I
14 think we have a little time to work that out, and I will work
15 that out with Mr. Klingeman.

16 THE COURT: Okay.

17 MR. NOBLE: I spoke with Ms. Santillo regarding a
18 briefing schedule relating to the issue of failing to turn over
19 the email accounts. We would propose that the government file
20 a letter by Sunday, and Ms. Santillo would file her letter by
21 Thursday. Again, this is evidence that we don't expect will
22 come in until the following week. If the Court is prepared, we
23 can address it at the charge conference on Friday or we could
24 even bring it up first thing Monday morning after your Honor
25 has had a chance to read the letters.

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1 THE COURT: So tell me, one more time, the schedule.

2 MR. NOBLE: The government will file its letter by
3 this Sunday, and Ms. Santillo would file her letter by next
4 Thursday.

5 THE COURT: Let me just look at the calendar. You
6 file Sunday and Thursday, and then the charge conference is
7 Friday. That's what you're suggesting, we discuss it on
8 Friday?

9 MR. NOBLE: We could discuss it on Friday or we could
10 discuss it first thing the following Monday morning.

11 THE COURT: That strikes me as excessive on your end
12 and crunched on my end, just given the schedule. So how about
13 Saturday and Wednesday?

14 MR. NOBLE: That's fine. We're trying to accommodate
15 Ms. Santillo because she's going to be doing all of the
16 witnesses on Wednesday. It's fine for the government, we're
17 happy to file by Saturday, but I don't know if Ms. Santillo --
18 she requested a little more time.

19 THE COURT: Well, by 11:59 on Wednesday and then -- if
20 you need that much time to brief it, I need time to look at it,
21 and I have a full calendar on Thursday and Friday.

22 MR. NOBLE: Yes, your Honor. We'll file it by
23 Saturday.

24 THE COURT: All right.

25 What else?

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1 MR. NOBLE: Just one other issue that came up
2 yesterday during Mr. Creizman's cross-examination of Mr. Curry.
3 He cross-examined him on this firm, Dollar Associates. It
4 turns out Dollar Associates is not a law firm, as Mr. Creizman
5 represented and tried to get the witness to recall the name of.
6 I don't think that we are requesting any kind of curative
7 instruction, but we just wanted to alert your Honor to the fact
8 that Dollar Associates is a consulting firm run by a former
9 NCUA official, it's not, in fact, a law firm. So that could
10 have been misleading to the jury.

11 THE COURT: So there is no application?

12 MR. NOBLE: No, no application to that. We just
13 wanted to alert your Honor to that fact.

14 Also, the bigger picture, the bigger point is, we have
15 concerns that counsel might be trying to backdoor in an
16 advice-of-counsel defense. We have conferred with Mr. Creizman
17 about this, and we're going to kind of closely monitor it, but
18 there may be issues because, to the extent they argue that
19 Mr. Lebedev was relying on advice of counsel, either directly
20 from an attorney or through Anthony Murgio, we would have an
21 issue with that because it raises some of the privilege
22 concerns in this case. The government has not seen all of the
23 email correspondence between Anthony Murgio and his attorneys
24 because of the privilege, including some that may have included
25 Mr. Lebedev. And to the extent counsel is trying to put forth

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1 an argument to the jury that Mr. Lebedev was acting in good
2 faith because he was relying on the fact that Anthony Murgio
3 had consulted with an attorney about various issues, we may
4 want to attempt to pierce that privilege and force a waiver, so
5 that we can understand what representations were being made to
6 the attorneys, what advice the attorneys were giving, because
7 it could be relevant in addressing this argument from counsel
8 that Mr. Lebedev was acting in good faith based on advice of
9 counsel, either directly or indirectly through Anthony Murgio,
10 because we have concerns, there's evidence that suggests that
11 Anthony Murgio and others were not completely forthright with
12 the attorneys that they were consulting with.

13 For instance, their chat communications in which
14 Anthony Murgio tells others that they're not going to disclose
15 to one attorney the fact that they had paid the money to Trevon
16 Gross and his church, they were going to withhold that from an
17 attorney when they were seeking advice from that attorney about
18 how to proceed with the HOPE FCU situation. So that's just one
19 example where Murgio, Lebedev, others could have been either
20 making misrepresentations to the attorneys or withholding
21 relevant information in order to get some kind of legal cover
22 for the conduct that they were engaging in.

23 MR. CREIZMAN: Your Honor, I'd just like to address
24 both points.

25 First of all, with respect to the law firm, number

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1 one, there was no intent to deceive or misrepresent anything to
2 the jury. In Government Exhibit 3522-005, which includes
3 communications between a Brian McDonough of the NCUA and other
4 NCUA people in which Clayton Curry was copied, there's a
5 reference to, "I have communicated" -- this is from Brian
6 McDonough -- "I have communicated with an attorney representing
7 board members who were asked to vacate their seats based on our
8 examined board issue in September. For some reason, they have
9 retained an attorney based in Alabama to review this matter."

10 Clayton Curry also told the government, in Government
11 Exhibit 3522-001, that he had received a letter from an
12 attorney about the three Collectables members. And in other
13 communications, in WhatsApp communications that Murgio --
14 Anthony Murgio had with members of his group, he said -- and
15 Michael Murgio -- they said that they were retaining two
16 different firms, one of which was Dollar Associates. Dollar
17 Associates is based in Alabama. So to the extent that everyone
18 seemed to refer to them as law firms, that is where -- there's
19 no question that that is the firm that wrote the letter. So
20 there's no intent to mislead a jury about whether it was a law
21 firm or not.

22 THE COURT: Well, did you think they were a law firm
23 yesterday?

24 MR. CREIZMAN: I did, actually, until Mr. Noble
25 brought it to my attention yesterday that they, in fact, were

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1 not a law firm, they were a consulting firm for NCUA matters,
2 for credit union matters.

3 But the point is that everyone considered them a law
4 firm. The only point of all of this was that, from
5 Mr. Lebedev's perspective, who had seen Anthony Murgio write,
6 "We're retaining these guys, look at their credentials," okay,
7 and one of the people was the former NCUA chairman, and
8 Mr. Curry apparently thought that this person was a lawyer,
9 and --

10 THE COURT: Well, I'm not sure about that, but he was
11 confused by your assertion or suggestion that this was a law
12 firm, that Dollar Associates was a law firm.

13 Now, you're saying you got that from the 3500
14 material, but that might be because you made an assumption
15 that, I don't know, maybe there's another lawyer from Alabama,
16 or maybe you're right, that he made the mistake. In any event,
17 I take you at your word that you didn't know yesterday, when
18 you suggested it, that Dollar Associates is not a law firm.

19 MR. CREIZMAN: Right. And I pieced it together from
20 various sources is what I'm pointing out. The purpose of the
21 cross-examination wasn't to establish that there was a law
22 firm, so much as what people who worked for Anthony Murgio or
23 who worked with Anthony Murgio on the HOPE FCU believed was
24 going on in terms of communications with the NCUA and -- that
25 this was being handled by Anthony Murgio and Michael Murgio

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1 with the assistance of -- in this case, it wasn't a lawyer, but
2 certainly professionals who have experience. That's what goes
3 to the second point.

4 I'm not asserting an advice-of-counsel defense. I
5 don't believe that Mr. Lebedev was privy to any attorney-client
6 communications. And I think that this is a pattern that even
7 the government would acknowledge, that Murgio had told other
8 people, such as Jen Wotherspoon, that there was a lawyer in
9 Texas that says that it's okay to set up an association that
10 could deal in Bitcoins, and you don't need a money transmitter
11 license, and then he's telling people in the group that, A,
12 we've retained this attorney, this law firm, Perkins Cowhey,
13 which I believe is a law firm, and Dollar Associates, which
14 apparently is not. But the point is that this is what's being
15 communicated online, and the people who are kind of part of the
16 group are not really -- other than Anthony and Michael, they're
17 not communicating with these lawyers. All they know is that
18 someone's talking about talking to lawyers. That's all it is.

19 So there's no advice-of-counsel defense, but it does
20 go to Mr. Lebedev's state of mind in terms of good faith, that
21 obviously this is what I'm being told, I'm being told they're
22 handling it with lawyers. That doesn't give Mr. Lebedev the
23 right to make intentional misrepresentations or -- and maybe it
24 doesn't absolve him in some way of being careless or reckless,
25 but my point is, this is a criminal case, and intent is

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1 critical here. So if the government wants to sift through
2 attorney-client communications of Anthony Murgio and Michael
3 Murgio, I'm pretty sure that Yuri Lebedev is not in those
4 communications and is not making representations to attorneys.
5 That's not the purpose of why we brought any of this stuff up.

6 THE COURT: So let me just make sure I have what you
7 want to do with it, and then I'll get the government's view.

8 So you're not saying Mr. Lebedev sought legal advice
9 himself?

10 MR. CREIZMAN: Exactly.

11 THE COURT: And acted pursuant to that advice?

12 MR. CREIZMAN: Absolutely right.

13 THE COURT: Or that in seeking legal advice, he acted
14 and, therefore, was acting in good faith?

15 MR. CREIZMAN: That's right.

16 THE COURT: But you are saying that to the extent that
17 Mr. Murgio led him to believe that Mr. Murgio sought legal
18 advice --

19 MR. CREIZMAN: Correct.

20 THE COURT: -- and based on that advice, Mr. Lebedev
21 understood himself to be acting in good faith?

22 MR. CREIZMAN: Correct. Understood that this was not
23 a -- this was a legitimate organization, this was a legitimate
24 effort to try to gain seats to get back their board control of
25 the HOPE Federal Credit Union, that this was not some sort of

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1 effort to deceive the NCUA in any way.

2 THE COURT: The idea is that while if Mr. Lebedev did
3 that directly from an attorney, that would be an invocation of
4 an advice-of-counsel defense, but getting that same information
5 through a nonattorney intermediary somehow means it's not an
6 advice-of-counsel defense?

7 MR. CREIZMAN: No, I wouldn't even say that. If
8 Anthony Murgio says, look, our lawyer says that it's okay to
9 lie about where you live or something along those lines, this
10 is what this lawyer told me, no, that would approach
11 advice-of-counsel defense. All I am just trying to point out
12 is that Anthony Murgio and Michael Murgio were representing to
13 the group that they were dealing with lawyers, that they were
14 acting with lawyers, that they were communicating with the
15 NCUA, and strategizing with the insistence of lawyers, not that
16 any particular statement or any particular communication was
17 based on legal advice or anything along those lines. It's just
18 more of a general idea that the people who are most invested in
19 this business, which were Anthony Murgio and Michael Murgio,
20 were actively seeking counsel and people who pretend -- seemed
21 to be counsel, like Dollar Associates.

22 That's essentially it. I don't think that comes near
23 to the realm of advice of counsel, because I'm not suggesting
24 that Yuri was told this is okay to do, and we've checked it out
25 with lawyers, but it's more like, you know, just an

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1 understanding of the general business. It's not like Anthony
2 Murgio is saying, hey, let's communicate lies to the NCUA, it
3 was more of a, we're working with attorneys, we're doing what
4 we have to do. And they never said that this particular
5 communication was approved by an attorney or anything else.
6 I'm just saying that it would impact, I think, on Mr. Lebedev's
7 overall view of the situation that was going on and their
8 efforts, and it probably would impact on his -- I guess his
9 feeling the need to investigate what exactly is happening over
10 here, what they're doing, and how closely he needs to be
11 involved in this process.

12 THE COURT: Okay. I understand the distinction.

13 Mr. Noble?

14 MR. NOBLE: Judge, it does approach an
15 advice-of-counsel defense, an indirect advice-of-counsel
16 defense. Our main issue with this is that if Yuri Lebedev was
17 copied on any communications, privileged communications,
18 between Anthony Murgio and the lawyers in which
19 misrepresentations were made to the lawyers, that evidence
20 would tend to undermine any defense the mere fact that Anthony
21 Murgio was consulting lawyers somehow implies that Yuri Lebedev
22 was acting in good faith.

23 The problem with that is, we just don't know because
24 we don't have access -- we haven't seen all of the
25 communications between Murgio and the attorneys, because of the

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1 privilege issue. What we want to do, which we will do, is go
2 back and see, from our privilege log and speaking with the
3 taint AUSA, if Yuri Lebedev was copied on any of these emails
4 communications with attorneys, in which case we may want to
5 pierce the privilege or seek to pierce the privilege, so that
6 we can see whether or not Lebedev was on any email
7 communications that contain misrepresentations, because,
8 otherwise, we do have a Rule 403 argument to exclude this
9 evidence and this line of cross-examination, this line of
10 argument to the jury, that somehow Yuri Lebedev was acting in
11 good faith based upon the mere fact that Anthony Murgio told
12 him that he was consulting with lawyers about all this stuff.
13 Because it does imply that somehow lawyers are giving a
14 blessing to everything that they're doing.

15 Whether you call it a pure advice-of-counsel defense
16 or an indirect advice-of-counsel defense, that's the value of
17 this evidence to the defense, and we think it's wholly unfair
18 if they are making misrepresentations, and Mr. Lebedev is aware
19 of misrepresentations to lawyers, to be able to permit the
20 defense to argue to the jury he did nothing wrong, he acted in
21 good faith based upon the mere fact that they were consulting
22 lawyers, if the jury doesn't get to hear the full story that
23 they're actually lying to the lawyers about what they're doing.

24 Part of our problem and the reason we're raising this
25 is just that we want to flag it for your Honor. It could be an

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1 improper line of cross-examination, argument to the jury. We
2 don't know the full story because we haven't seen all the
3 privileged communications, what exactly it was that Anthony
4 Murgio was telling the lawyers, what Mr. Lebedev knew Anthony
5 Murgio was telling to the lawyers. We have hints of it in some
6 of the chat messages that are not privileged, but we don't have
7 the full picture yet.

8 MR. CREIZMAN: I would say that to the extent that
9 Yuri Lebedev was copied on any communications with Perkins
10 Cowhey, Dollar Associates, or any of the firms that Anthony
11 Murgio represented he was talking to, certainly we waive the
12 privilege as to those communications because the point is not
13 even an indirect advice of counsel, it's, again, a more
14 generalized, these are the people in charge, these are the guys
15 who are handling things. It's not that everything has been
16 blessed by an attorney. It's more that Yuri Lebedev's degree
17 of care, in terms of reviewing documents and being on guard as
18 to whether some illegality is going on, that is where this all
19 goes to.

20 And I think that that's something that Jen Wotherspoon
21 testified about, and I think that Rico Hill, at least in some
22 of his communications and meetings with the government, said
23 that he thought that lawyers were involved, that Anthony had
24 represented that to him. Yuri doesn't get a pass just
25 because -- if he makes a misrepresentation, but you can be

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1 careless and not looking at a representation and signing onto a
2 representation, and that doesn't make you guilty of a crime,
3 that doesn't give you the necessary intent or even willful
4 blindness unless there is really willful blindness. And if you
5 are being told that lawyers are in the mix and not with respect
6 to any particular document, just that that's what they're
7 looking at, then I would say that's a factor for the jury to
8 consider.

9 THE COURT: I think maybe you don't disagree with
10 Mr. Noble.

11 MR. CREIZMAN: Never. I never disagree with him.

12 THE COURT: What would you propose to do? So you want
13 to say Mr. Lebedev has been given this information that lawyers
14 are involved and Mr. Murgio's consulting lawyers in a way that
15 would suggest to the jury not that a lawyer has given him
16 specific advice to do what he does, but it's relevant to an
17 argument of the lack of good faith, right?

18 MR. CREIZMAN: That's right.

19 THE COURT: That's your argument.

20 If with the waiver that you have just indicated -- and
21 I haven't heard Mr. Noble yet as to if there are other people's
22 privilege involved as well. But if, in fact, Mr. Lebedev is
23 cc'd on some significant number or some number of
24 communications between the Murgios and the lawyers or Dollar
25 Associates, such that he might be copied on misrepresentations

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1 to them or the like, it is your position, then, that this could
2 come in to rebut the good-faith argument that you're making?

3 MR. CREIZMAN: Yes. Yes, I would think that's fair.
4 I would think that's fair.

5 MR. NOBLE: Those would be coconspirator statements in
6 furtherance of the conspiracy, we would argue.

7 THE COURT: So are you in vigorous agreement?

8 MR. NOBLE: I think we've come to a common ground. I
9 think in terms of our next steps is we'll go back and look at
10 the privilege log and see if there are any additional
11 communications that the government hasn't seen that Mr. Lebedev
12 may have been copied on.

13 THE COURT: On the theory that you have now been given
14 a waiver with respect to Mr. Lebedev's communications -- I'm
15 not sure what that means.

16 MR. NOBLE: Yeah, I think that the communications are
17 still privileged, and I think we would have to have your Honor
18 review them in camera. We'd have to come up with a way to
19 either seek waiver from other individuals, probably Murgio, on
20 those emails to see if we can actually read them. We could
21 also submit them to your Honor for review, in camera review, to
22 determine whether or not it appears that there is -- I think
23 the crime-fraud exception would apply if they're lying to
24 attorneys in order to further the conspiracy to try to get
25 legal cover for what they're doing.

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1 So we may have arguments that we can pierce the
2 privilege on crime fraud, otherwise we can seek waiver, but I
3 think Mr. Lebedev himself just waiving privilege is not
4 sufficient for the government to get access to those emails.

5 THE COURT: I think we just need a path forward that's
6 realistic in this time frame.

7 When would this come up?

8 MR. NOBLE: Do you intend to cross Mr. Hill?

9 MR. CREIZMAN: The answer is that there may be a
10 WhatsApp communication in which Murgio mentions we're going --
11 look who we're hiring or something like that, that would be the
12 extent of it. So that would really be it. I don't think there
13 is anything -- to the extent that Mr. Hill said anything in his
14 proffers with the government about, Murgio told me that
15 everything was okay because he had talked to a lawyer, Murgio
16 represented to people that he had talked to regulators, and
17 everything was okay, so I might cross-examine him on that. On
18 any particular advice that was given, I don't think Murgio ever
19 said that any particular communication was advised by a lawyer
20 or any --

21 THE COURT: I guess Dollar Associates, is there a
22 privilege issue since they're not lawyers?

23 MR. CREIZMAN: No. And, in fact, in order to restore
24 my good name to this very Court, I would like Mr. Noble to
25 check and see if any communications with Dollar Associates are

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1 on the government's privilege log, because if they are, then
2 someone might owe me an apology.

3 MR. NOBLE: I'm not sure if there are any, but we will
4 check.

5 THE COURT: So the specific question, Mr. Noble, is:
6 In light of what Mr. Creizman has just said might happen with
7 respect to Mr. Hill, do you have concerns?

8 MR. NOBLE: Well, first of all, to the extent that he
9 elicits hearsay from Mr. Hill about what Anthony Murgio told
10 him, we would have a hearsay objection.

11 To the extent your Honor admits the testimony from
12 Mr. Hill that Anthony Murgio told me he consulted a lawyer, we
13 would request a limiting instruction that obviously that's not
14 coming in for its truth, it's coming in for, I guess, the
15 purpose of state of mind, but along the lines -- I don't think
16 we would have any, other than the potential hearsay objections,
17 to the line of cross-examination that Mr. Creizman has
18 outlined.

19 THE COURT: All right.

20 MR. NOBLE: We would reserve the right to possibly
21 request later on some kind of instruction to the jury that it
22 should disregard this line if we later find out evidence that a
23 lot of this is based on misrepresentations.

24 THE COURT: Well, I would think you could put on the
25 evidence. I don't know that it would lead to instructing them.

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1 That is to say, unless there's some deeply misleading, but if
2 it's just a contested factual question, then you would have the
3 opportunity to present counter evidence.

4 MR. NOBLE: Yes. We just want to reserve our right to
5 make an application in that regard, depending on your Honor's
6 rulings on privilege issues and what we find.

7 THE COURT: I would never stop an application.

8 MR. NOBLE: Okay.

9 THE COURT: We do have all of our jurors. They're so
10 responsible; it is truly admirable. One had missed a train by
11 about ten seconds, and so contacted Ms. Nunez to say she
12 wouldn't be here until about 9:40. She's here, so she just
13 needs a few minutes to settle in. So, unless there's anything
14 else we need to take up, I propose everybody just take two
15 minutes, and then we'll bring out the jury.

16 MR. NOBLE: Thank you, Judge.

17 MR. KLINGEMAN: If I could let you know what's
18 happening with Mr. Hill. The government the night before last
19 provided to me, who will be handling Mr. Hill, a list of the
20 exhibits that the government intends to show to Mr. Hill. I
21 have reviewed that list, and I don't have any objections.

22 Late last night, or should I say early this morning,
23 the government supplemented that list with some more exhibits.
24 I'm going to need some time today, lunch, whatever, to look at
25 them, but I don't anticipate any objections.

H2NKLEB1

1 The government also provided to me a stipulation
2 concerning the admissibility of audio recordings and
3 transcripts corresponding to those audio recordings. I'm
4 prepared to sign the stipulation when it's given to me, I'm
5 prepared to consent to the admissibility of these audio
6 recordings and the playing of those audio recordings to the
7 jury today.

8 I'm also stipulating to the use of the transcripts. I
9 did tell the government that I will be listening carefully, as
10 we all will, and if we pick up any stray errors in the
11 transcripts, we can correct them, but one thing I don't know is
12 the Court's practice with respect to transcripts going in
13 evidence and to the jury. And, obviously, I defer to the Court
14 on that, but if the transcripts are going to the jury, then I
15 want to reserve the right to correct any of them as we're
16 listening in court today.

17 THE COURT: I've always managed to get agreement
18 between the parties on this question. So why don't you see if
19 there's agreement.

20 MR. KLINGEMAN: Will do.

21 THE COURT: And then if there's not --

22 MR. KLINGEMAN: Finally, the government's offering
23 these so-called WhatsApp chats, and, again, I have no objection
24 to their use and publication to the jury today. So the only
25 thing I'm going to try to do sometime while Mr. Hill is on

H2NKLEB1

1 direct is review the second set of exhibits. Otherwise, we're
2 good to go.

3 THE COURT: And we have another witness first?

4 MS. CHOI: Yes, your Honor. I'm sorry. I just want
5 to get clarity. Your Honor said that, in your experience, the
6 parties have agreed as to whether or not transcripts go back
7 with the jury or not?

8 THE COURT: Yes.

9 MS. CHOI: I just wanted to make sure I had heard that
10 correctly.

11 THE COURT: Yes. People have different views.

12 MS. CHOI: Right.

13 THE COURT: And I haven't had to resolve different
14 views in that regard.

15 MS. CHOI: Understood.

16 THE COURT: I'm going to take one minute. And, thank
17 you, Mr. Klingeman, for the report. I appreciate the efforts.
18 We'll take a minute, and I will come back in one minute, and
19 then we'll bring in the jury.

20 (Recess)

21 MR. SHIN: Judge, just as the jury is coming out, a
22 reminder that we're planning to put on the Bank of America
23 witness.

24 THE COURT: What's the witness' name?

25 MR. SHIN: Andrew Levy.

H2NKLEB1

1 THE COURT: Thank you, Mr. Shin.

2 MR. SHIN: So we'd ask the Court to provide that
3 instruction we had discussed yesterday.

4 THE COURT: I will.

5 MR. SHIN: Thank you.

6 THE COURT: About how long for the direct?

7 MR. SHIN: Five to ten minutes.

8 MR. KLINGEMAN: I've got about three hours of cross.

9 THE COURT: Excellent.

10 (Continued on next page)

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H2NKLEB1

1 (Jury present)

2 THE COURT: Good morning, everyone.

3 JURY MEMBERS: Good morning.

4 THE COURT: Please take your seats.

5 Good morning, ladies and gentlemen of the jury. Thank
6 you again for your attention and diligence. I note there was a
7 train issue this morning, which means a slightly late start,
8 but I'm very grateful for everyone's continuing efforts to be
9 here on time. It's really helping us keep this process moving.

10 As happened last week, there is a scheduling issue,
11 and so rather than returning immediately to Mr. Hill's direct
12 examination, we're going to interrupt that now, and the
13 government will call a different witness, and we will do the
14 direct, cross, and redirect of that witness and then return to
15 Mr. Hill.

16 Mr. Shin.

17 MR. SHIN: Thank you, your Honor. The government
18 calls Andrew Levy to the stand.

19 THE COURT: All right. Mr. Levy may come toward.

20 ANDREW LEVY,

21 called as a witness by the Government,

22 having been duly sworn, testified as follows:

23 THE COURT: Please be seated, and once you are seated,
24 please pull yourself up close to the microphone, and state and
25 spell your name for the record.

H2NKLEB1

Levy - Direct

1 THE WITNESS: Andrew Levy, A-n-d-r-e-w, L-e-v-y.

2 THE COURT: You may proceed.

3 MR. SHIN: Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY MR. SHIN:

6 Q. Mr. Levy, good morning.

7 A. Good morning.

8 Q. Where do you work?

9 A. Bank of America.

10 Q. And how long have you worked there?

11 A. For a little over ten years.

12 Q. And during those ten years, have you had the same job the
13 entire time?

14 A. No.

15 Q. Could you please describe for the jury the different jobs
16 you've had at Bank of America?

17 A. Sure. I started as a senior account manager in customer
18 assistance, then I moved to the risk detection unit as a senior
19 credit analyst, and then into my current role, about six and a
20 half years ago, working in legal order processing.

21 MR. SHIN: Your Honor, if we could just adjust the
22 microphone?

23 THE COURT: Go ahead.

24 Thank you, Ms. Choi.

25 Q. And, Mr. Levy, in your current role in the legal order

H2NKLEB1

Levy - Direct

1 processing department, what's your title?

2 A. Operations analyst bank officer.

3 Q. What do you do in that role?

4 A. I'm the custodian of records for the Northeast region of
5 the country. I testify on behalf of the bank whenever bank
6 documents are subpoenaed.

7 Q. And approximately how many times have you testified prior
8 to today?

9 A. Roughly about 600.

10 Q. Have you ever testified on the topic of wire transfers?

11 A. Yes, I have.

12 Q. And about how many times have you testified on that
13 subject?

14 A. Probably ten to a dozen.

15 Q. Now, in connection with testifying about wire transfers
16 previously, have you gained knowledge necessary for that
17 testimony?

18 A. Both through training -- mandatory training at the bank, as
19 well as developing some contacts within the bank who I've had
20 to discuss wires with, people that work with wires on a regular
21 basis within the bank.

22 MR. SHIN: Your Honor, at this time the government
23 offers Exhibit 864, which the parties have agreed, pursuant to
24 stipulation, is an admissible bank record.

25 MR. KLINGEMAN: No objection.

H2NKLEB1

Levy - Direct

1 MR. CREIZMAN: No objection.

2 THE COURT: Thank you.

3 864 is admitted.

4 (Government's Exhibit 864 received in evidence)

5 MR. SHIN: Your Honor, may we publish to the jury?

6 THE COURT: You may.

7 MR. SHIN: Ms. Grant, if you could just page through
8 that for Mr. Levy's benefit.

9 BY MR. SHIN:

10 Q. Mr. Levy, do you recognize this exhibit?

11 A. Yes, I do.

12 Q. What is it?

13 A. They are copies of wire transfers from a Bank of America
14 account.

15 Q. How many copies of wire transfers are in this exhibit?

16 A. There are two separate wire transfers.

17 Q. What is a wire transfer?

18 A. A wire transfer is basically an electronic way of sending
19 money from one person to another, from one bank to another.

20 Q. And these two documents, generally, what are these sorts of
21 documents called here that we're looking at?

22 A. The Bank of America name is a full tran report. It can
23 also be called a Fedwire.

24 Q. What is the purpose of this document?

25 A. It's basically a set of instructions for how to move the

H2NKLEB1

Levy - Direct

1 money from one entity to another.

2 Q. Are wire transfer instructions like these available to
3 customers on request?

4 A. Yes.

5 Q. So just to be clear, the documents we're looking at, what
6 entity created these documents?

7 A. Bank of America.

8 MR. SHIN: Ms. Grant, if you could turn to page 4 of
9 the document. And if you could zoom in roughly the top third
10 of the page.

11 Q. Mr. Levy, is this one of the two wire transfers in this
12 exhibit?

13 A. Yes, it is.

14 Q. What is the date and amount of this wire transfer?

15 A. The date was May 9th of 2014 and in the amount of \$15,000.

16 Q. If you could just explain for the jury what entities are
17 involved in this wire transfer?

18 A. Sure. You basically had two banks and two customers. Bank
19 of America was one of the banks, and their customer, our
20 customer, was Currency Enthusiasts, and the other entity was
21 PNC Bank, whose customer was Hope Cathedral.

22 MR. SHIN: Sorry, could you return to that zoom-in,
23 please, Ms. Grant.

24 Q. So, just to be clear, the Bank of America customer in this
25 case is who?

H2NKLEB1

Levy - Direct

1 A. Currency Enthusiasts.

2 Q. And that's indicated on the left side of the exhibit; is
3 that right?

4 A. That's correct, three lines down on the left side.

5 Q. The recipient of this wire transfer is whom?

6 A. Hope Cathedral.

7 Q. Who is its Bank?

8 A. Hope Cathedral's bank was PNC.

9 Q. So, Mr. Levy, if you look a few lines down from Hope
10 Cathedral, do you see the field there that says, "Orig to Benef
11 Info"?

12 A. I do.

13 Q. What is that field?

14 A. That's basically like a memo line on the check to indicate
15 from -- the sending customer would have that line entered and
16 just a way to denotate what the money was for, what the wire
17 was for.

18 Q. And what is the entry in that field here?

19 A. This says "Donation."

20 Q. That information is provided by whom in this transaction?

21 A. By the customer, Currency Enthusiasts.

22 MR. SHIN: Ms. Grant, if you could zoom out, please.

23 And on that same page, if you could zoom into that
24 bottom section.

25 Thank you.

H2NKLEB1

Levy - Direct

1 Q. Mr. Levy, if you look at the section there labeled "3100"?

2 A. Yes.

3 Q. What is the sending bank indicated in that section?

4 A. The sending bank is Bank of America NYC.

5 Q. And where is it located?

6 A. New York City.

7 Q. Now, do you see there in that same section, there's a term,
8 "ABA number"?

9 A. Yes.

10 Q. What does that mean?

11 A. ABA stands for American Bankers Association. It can also
12 be referred to as a routing number. It's basically a bank's
13 identifier, so other banks know where to send money to, that it
14 is specifically going to go to that bank.

15 (Continued on next page)

H2NOLEB2

Levy - Direct

1 BY MR. SHIN:

2 Q. And the specific number here ending in 9593, do you
3 recognize that number?

4 A. I do.

5 Q. What is it?

6 A. This is Bank of America's unique routing number for our
7 account with the Federal Reserve Bank of New York.

8 Q. So the fact that that number is listed here in these
9 instructions, what, if anything, does that tell you about this
10 wire transfer?

11 A. That this particular wire transfer went through the Federal
12 Reserve Bank of New York.

13 Q. And when you say it went through the Federal Reserve Bank
14 of New York, what is the New York Federal Reserve Bank's role
15 in this transaction?

16 A. They're basically the middleman, the entity that took money
17 out of Bank of America's account, Currency Enthusiasts, and put
18 it into the PNC account of Hope Cathedral.

19 Q. Where is the Federal Reserve Bank of New York located?

20 A. Manhattan.

21 MR. SHIN: If you could turn to page 1 of the
22 document, please? If you could zoom in to the top portion as
23 you had previously?

24 Q. Mr. Levy, what is the date and amount of this wire
25 transfer?

H2NOLEB2

Levy - Direct

1 A. This was May 21st of 2014 in the amount of \$15,000.

2 Q. Are the customers and banks involved in this transaction
3 the same as what we saw previously?

4 A. Yes, they are.

5 MR. SHIN: Ms. Grant, if you could zoom out and zoom
6 in to the bottom half.

7 Q. Mr. Levy, again directing your attention to the
8 3100 section.

9 A. Yes.

10 Q. So again, what is the sending bank on this wire transfer?

11 A. Sending bank was Bank of America NYC.

12 Q. That's located where?

13 A. In New York City.

14 Q. And is the ABA number for this wire transfer the same one
15 that we saw earlier ending in 9593?

16 A. Yes, it is.

17 Q. What does that tell you about that wire transfer?

18 A. This particular wire transfer went through the Federal
19 Reserve Bank of New York.

20 MR. SHIN: No further questions, your Honor.

21 THE COURT: Thank you, Mr. Shin.

22 Mr. Creizman.

23 MR. CREIZMAN: No questions, your Honor.

24 THE COURT: Mr. Klingeman.

25 MR. KLINGEMAN: Thank you, your Honor.

H2NOLEB2

Levy - Cross

1 THE COURT: Cross examination of Mr. Levy on behalf of
2 Mr. Gross. Mr. Klingeman, when you're ready.

3 MR. KLINGEMAN: Thank you, your Honor.

4 CROSS EXAMINATION

5 BY MR. KLINGEMAN:

6 Q. Good morning, Mr. Levy.

7 A. Good morning.

8 Q. Welcome. My name is Henry Klingeman and I represent Trevon
9 Gross.

10 Just by way of reference, if you need to look at
11 Exhibit 864 at any point, just let me know, but I presume, just
12 having looked at it 45 seconds ago, you can bear with me.

13 A. Sure.

14 Q. You described the memo line as an explanation of -- to use
15 your words -- "what the wire is for".

16 A. Correct.

17 Q. Okay. And in the memo line for these two wire transfers,
18 the purpose given is "donation"?

19 A. Correct.

20 Q. And the beneficiary of the donation is the Hope Cathedral?

21 A. Correct.

22 Q. Let me ask you some questions about New York's connection,
23 geographical connection to this pair of wire transfers, okay?

24 A. All right.

25 Q. You indicated that the Federal Reserve Bank of New York,

H2NOLEB2

Levy - Cross

1 which is a few blocks from here, played some role in this?

2 A. Yes.

3 Q. But the Bank of America customer in this case opened the
4 account in Florida, correct?

5 A. Their address is in Florida, yes.

6 Q. The address is in Florida.

7 A. Correct.

8 Q. And the Bank of America customer in Florida was sending the
9 money -- or sending the direction from Florida, right?

10 A. I'm not sure where they actually originated the wire
11 transfer from.

12 Q. Okay. But the customer is located in Florida, according to
13 the address in the records that you just talked about.

14 A. Correct.

15 Q. And the money was directed to a beneficiary, Hope
16 Cathedral, located in New Jersey.

17 A. Correct.

18 Q. The money, the wire transfer, was not directed by the
19 customer in Florida to New York, right?

20 A. No, not they themselves, no.

21 Q. That happened because that's the way Bank of America
22 processed this particular wire transfer.

23 A. Correct.

24 Q. There's no indication in the Government's Exhibit 864 that
25 the recipient, Hope Cathedral, was notified that the money had

H2NOLEB2

Levy - Cross

1 passed through New York, correct?

2 A. That's correct.

3 Q. I think you indicated, and you can correct me if I'm wrong,
4 that a Bank of America customer, the Florida customer for
5 example, could visit Bank of America and look at the wire
6 transfer records if that person wanted to, correct?

7 MR. SHIN: Objection, your Honor.

8 THE COURT: Misstates? Is that the objection?

9 MR. SHIN: Yes, your Honor.

10 THE COURT: Sustained.

11 BY MR. KLINGEMAN:

12 Q. Why don't you tell us -- do you recall what I'm referring
13 to?

14 A. Yes.

15 Q. Please, help me and help the jury.

16 A. What do you want me to explain?

17 Q. What did you say to counsel earlier about that?

18 A. He asked if a Bank of America customer could ask for that
19 information from the bank, and my answer was "yes".

20 Q. Okay. By visiting a branch, for example?

21 A. Yes.

22 Q. Or perhaps making an online inquiry?

23 A. I'm not sure if they could do it online or not.

24 Q. Or over the telephone?

25 A. Again, not sure.

H2NOLEB2

Levy - Cross

1 Q. But certainly, a Bank of America customer could go to a
2 Bank of America branch and ask for this information.

3 A. That's correct.

4 Q. Any indication in the exhibit that you were shown,
5 Government's 864, that the Bank of America customer in Florida
6 ever did that?

7 A. No.

8 Q. How about a non-Bank of America customer?

9 A. No, the non-Bank of America customer could not request
10 documents for a Bank of America account.

11 Q. So if a non-Bank of America customer went to a Bank of
12 America branch and said 'I want to see the wire transfer
13 records', Bank of America would say 'no'.

14 A. That's correct.

15 Q. 'None of your business'.

16 A. Essentially.

17 Q. And Hope Cathedral, according to the record that you have
18 in front of you, is a customer of PNC Bank in New Jersey.

19 A. According to this record, yes.

20 Q. And not a customer of Bank of America.

21 A. I'm not sure if she is or not.

22 Q. You don't know all the customers of Bank of America?

23 A. I can't say I do.

24 Q. Of course not. But there's no indication in the records
25 that you've looked at that Hope Cathedral is a Bank of America

H2NOLEB2

Levy - Redirect

1 customer.

2 A. Not from this record, no.

3 Q. And assuming for the sake of my question that Hope
4 Cathedral were not a Bank of America customer, Hope Cathedral
5 could not go to Bank of America and say 'hey, let me see the
6 wire transfer records', right?

7 A. That would be correct.

8 MR. KLINGEMAN: Thank you, your Honor. No further
9 questions.

10 THE COURT: Thank you.

11 MR. SHIN: Your Honor, may I just briefly?

12 THE COURT: Go ahead.

13 REDIRECT EXAMINATION

14 BY MR. SHIN:

15 Q. Mr. Levy, you recall the last few questions about whether a
16 non-Bank of America customer could ask Bank of America for wire
17 instruction records?

18 A. Yes.

19 Q. In your experience, can a Bank of America customer who
20 receives a wire transfer go to Bank of America and ask for
21 these instructions?

22 A. Yes, they could.

23 MR. KLINGEMAN: Objection, relevance.

24 MR. SHIN: Your Honor, I think --

25 THE COURT: I'll overrule. You can ask a follow-up.

H2NOLEB2

Levy - Redirect

1 BY MR. SHIN:

2 Q. Do you have any reason to believe that that availability to
3 a receiving customer is any different at any other bank?

4 A. No.

5 MR. SHIN: No further questions, your Honor.

6 THE COURT: Mr. Klingeman?

7 MR. KLINGEMAN: Nothing. Thank you, your Honor.

8 THE COURT: Mr. Creizman?

9 MR. CREIZMAN: No. Thank you, your Honor.

10 THE COURT: Mr. Levy, you're excused. Thank you.

11 THE WITNESS: Thank you, your Honor.

12 (Witness excused)

13 THE COURT: You may call Mr. Hill back to the stand.

14 MS. CHOI: Your Honor, right before we do that, we'd
15 like to publish one exhibit. And just so counsel can have an
16 opportunity to review it, it's Government's Exhibit 800-H,
17 which the parties have stipulated are wire transfer records
18 belonging to PNC Bank.

19 MR. KLINGEMAN: I object, your Honor. I object.

20 THE COURT: All right.

21 MR. KLINGEMAN: I object to the timing of this.

22 THE COURT: Sustained. Not discussed. We'll stick
23 with the plan. You can raise it with me at the break.

24 MR. SHIN: Your Honor, the government calls Ricardo
25 Hill.

H2NOLEB2

Hill - Direct

1 THE COURT: Thank you. Mr. Hill, I will swear you in
2 again.

3 RICARDO HILL,

4 recalled as a witness by the Government,

5 having been previously sworn, testified as follows:

6 THE COURT: Mr. Shin, you may resume your direct
7 examination of Mr. Hill.

8 MR. SHIN: Thank you, your Honor.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. SHIN:

11 Q. Good morning, Mr. Hill.

12 A. Good morning.

13 Q. Mr. Hill, I believe where we left off yesterday, you were
14 describing your criminal history?

15 A. Yes.

16 Q. And I believe the last bit of that topic we covered was you
17 served some time in prison for two burglary convictions; is
18 that correct?

19 A. Yes.

20 Q. And about when were you released?

21 A. In January of 2006.

22 Q. So in addition to the crimes and juvenile offenses that you
23 described yesterday, have you ever committed other crimes for
24 which you have not been arrested?

25 A. Yes.

H2NOLEB2

Hill - Direct

1 Q. Could you describe those for the jury, please?

2 A. Sure. I helped friends of mine obtain small quantities of
3 cocaine, molly, and marijuana. I also paid what I owed in
4 cocaine. And I also stole a bag of marijuana from a guy in my
5 neighborhood.

6 Q. So in addition to what you just described with respect to
7 narcotics, have you personally used narcotics?

8 A. Yes. I've used marijuana throughout my life, and I also
9 tried cocaine while in high school.

10 Q. Now, returning to your arrest in this case, could you
11 remind the jury when you were arrested?

12 A. In October of 2016.

13 Q. So after your arrest, what did you decide to do afterward?

14 A. Cooperate with the government.

15 Q. And then did you meet with FBI agents and prosecutors to be
16 interviewed by the government?

17 A. Yes, I did.

18 Q. About how many times have you met with the government to
19 date?

20 A. About 12 to 15 times.

21 Q. During these meetings, did you admit to the crimes you
22 committed in connection with Coin.mx and HOPE FCU?

23 A. Yes.

24 Q. Did you tell the government about the people you committed
25 those crimes with?

H2NOLEB2

Hill - Direct

1 A. Yes.

2 Q. Have you pled guilty to those crimes?

3 A. Yes, I have.

4 Q. Could you describe to the jury what crimes you've pled
5 guilty to?

6 A. I pled guilty to bank fraud and wire fraud and conspiracy
7 to do so, I pled guilty to making false statements to federal
8 regularities, I also pled guilty to obstructing the examination
9 of federal regularities, I also pled guilty to -- I'm sorry, I
10 can't remember them all.

11 Q. Did you plead guilty to offenses related to operating
12 Coin.mx?

13 A. Yes, conspiracy to operate an unlicensed money transmitting
14 business, and also operating an unlicensed money transmitting
15 business.

16 Q. Did you plead guilty to any crimes in connection with the
17 payments to Mr. Gross that you described yesterday?

18 A. Yes, conspiracy to make corrupt payments to a bank official
19 and making corrupt payments to a bank official.

20 Q. Thank you, Mr. Hill.

21 Now, in conjunction with your guilty plea, did you
22 enter into an agreement with the government?

23 A. Yes, I did.

24 Q. Do you know what that agreement is called?

25 A. A cooperation agreement.

H2NOLEB2

Hill - Direct

1 MR. SHIN: Ms. Grant, if you could bring up, just for
2 the witness and the Court and counsel, 3502-15? Maybe if you
3 could zoom out so you can see a page at a time. If you could
4 just page through that for Mr. Hill's benefit.

5 BY MR. SHIN:

6 Q. What is this document?

7 A. My cooperation agreement.

8 MR. SHIN: Ms. Grant, if you could turn to the last
9 page. Thank you.

10 Q. On what date did you enter into this agreement, Mr. Hill?

11 A. January 17th of 2017.

12 Q. Did you plead guilty to the crimes you listed earlier on
13 that date?

14 A. Yes.

15 MR. SHIN: Ms. Grant, if you could take that down now,
16 and if you could please bring up 3502-26, just for the witness
17 and the Court and counsel. If you could just page through
18 that.

19 Q. Mr. Hill, what is this document?

20 A. This is an amended cooperation agreement.

21 MR. SHIN: Ms. Grant, if you could turn to the last
22 page, please.

23 BY MR. SHIN:

24 Q. On what date did you enter into this agreement?

25 A. On February 7th of 2017.

H2NOLEB2

Hill - Direct

1 Q. Now, on that date, did you go back into court and agree to
2 be bound by this amended cooperation agreement?

3 A. Yes, I did.

4 Q. Mr. Hill, what was amended between the first agreement and
5 the second agreement?

6 A. Crimes that I was not arrested for that I disclosed to the
7 government.

8 Q. What particular crimes that you disclosed to the government
9 were changed in the agreement?

10 A. Helping my friends obtain small quantities of cocaine,
11 marijuana, and molly, also paying individuals that I owed money
12 to in cocaine, and also stealing a bag of marijuana from a guy
13 in my neighborhood.

14 Q. Now, had you disclosed those particular crimes to the
15 government prior to entering into the original cooperation
16 agreement?

17 A. No, I didn't.

18 Q. Why not?

19 A. When asked about my past crimes, I didn't remember, I
20 forgot about those items I disclosed later.

21 Q. Was there anything about the way the questions were posed
22 to you that led to your not remembering those items?

23 A. Yes. I remember being asked if I was a drug dealer, and I
24 answered "no", that I wasn't, so therefore, I didn't consider
25 the crimes that I disclosed later.

H2NOLEB2

Hill - Direct

1 Q. Just to be clear, you subsequently disclosed those to the
2 government?

3 A. Yes.

4 Q. Now, do you have an understanding of the effect of
5 including these additional items in this amended cooperation
6 agreement?

7 A. Yes. The government would not prosecute me for the crimes
8 that I disclosed that I had not been arrested for, and also,
9 the judge would consider those crimes during my sentencing.

10 Q. Mr. Hill, you listed the various crimes you pled to
11 previously.

12 A. Yes.

13 Q. What is the highest possible sentence you face as a result
14 of pleading guilty to those crimes?

15 A. 125 years.

16 Q. Have you been sentenced yet?

17 A. No, I have not.

18 Q. Now, under the cooperation agreement, are you required to
19 do certain things?

20 A. Yes, I am.

21 Q. Could you describe those for the jury, please?

22 A. I'm required to testify truthfully, to disclose all
23 information and activities about myself and others pertaining
24 to this case, I'm required to cooperate with the government and
25 meet with them whenever they request my presence, to commit no

H2NOLEB2

Hill - Direct

1 more crimes whatsoever.

2 Q. Now, under the cooperation agreement, are you also required
3 to file amended tax returns for certain years and to pay past
4 taxes and penalties?

5 A. Yes, I am.

6 Q. Why is that?

7 A. I disclosed to the government a number of years that I did
8 not file taxes completely.

9 Q. Now, you alluded to the fact that one of the requirements
10 of the cooperation agreement is that you testify truthfully
11 here today.

12 A. Yes, that's correct.

13 Q. So just to be clear, are you testifying here today because
14 you are required to do so under the cooperation agreement?

15 A. Yes.

16 MR. CREIZMAN: Objection.

17 THE COURT: Just a moment.

18 MR. CREIZMAN: Bolstering.

19 THE COURT: I'm sorry?

20 MR. CREIZMAN: Bolstering.

21 THE COURT: Overruled.

22 Q. Now, if you comply with the requirements of the cooperation
23 agreement, what's your understanding of what the government
24 will do?

25 A. The government will write a 5K letter to the judge.

H2NOLEB2

Hill - Direct

1 Q. What judge is that?

2 A. Judge Nathan.

3 Q. And do you know what proceeding that would be in connection
4 with?

5 A. That would be in connection to my sentencing.

6 Q. What's your understanding of the information that the
7 government would include if it were to write that letter?

8 A. All relevant conduct and criminal conduct that I disclose
9 according to this case and my past, and of course the details
10 of my cooperating.

11 Q. So sitting here today, do you know for sure whether the
12 government will write that letter to the judge?

13 A. No, I do not.

14 Q. If the government were to write that letter, would the
15 government recommend a particular sentence for you?

16 A. No.

17 Q. So do you know for certain right now whether your sentence
18 will, in fact, be reduced?

19 A. No.

20 Q. Has the government made any promises to you about what your
21 sentence will be?

22 A. No.

23 Q. So is it still possible for you to be sentenced up to 125
24 years in prison?

25 A. Yes.

H2NOLEB2

Hill - Direct

1 Q. To your understanding of the cooperation agreement, does
2 your sentence in your case depend in any way on the outcome of
3 this trial?

4 A. No, it does not.

5 Q. If the government were to find out that you testified
6 falsely during this trial, what is your understanding of what
7 would happen?

8 MR. CREIZMAN: Objection.

9 THE COURT: Same objection? Is it the same objection?

10 MR. CREIZMAN: Yes.

11 THE COURT: Overruled.

12 THE WITNESS: I'm sorry?

13 THE COURT: You may answer.

14 THE WITNESS: I would not receive a 5K letter, and I
15 also can be charged with perjury and/or obstruction of justice.

16 BY MR. SHIN:

17 Q. Mr. Hill, you testified yesterday that you worked for
18 Anthony Murgio at Coin.mx, correct?

19 A. Yes.

20 Q. How did you first meet Mr. Murgio?

21 A. I worked at a restaurant called 101 Restaurant that he
22 owned previously.

23 Q. Just briefly, what did you do there?

24 A. I began as a server there, and I eventually became the
25 general manager at the restaurant.

H2NOLEB2

Hill - Direct

1 Q. What period of time was this?

2 A. From the end of 2010 to the Summer of 2013.

3 Q. Why did you stop working at the restaurant?

4 A. The ownership changed, and I eventually resigned.

5 Q. Now, while you were working at this restaurant, did you
6 become aware of any legal problems that Anthony Murgio was
7 facing?

8 A. Yes. While working at the restaurant, I witnessed him
9 being arrested for a tax issue.

10 Q. Where was he arrested?

11 A. At 101 Restaurant.

12 Q. At the restaurant where you worked?

13 A. Yes.

14 Q. Did you subsequently try to find out more about Murgio's
15 arrest?

16 A. Yes. I looked it up on Google.

17 Q. Were you able to find more information about it?

18 A. Yes.

19 Q. Did that information indicate what the problems were?

20 A. Yes.

21 Q. What were they?

22 A. That he didn't pay --

23 MR. KLINGEMAN: Objection.

24 THE COURT: Just a moment.

25 MR. KLINGEMAN: Hearsay now. Not the previous

H2NOLEB2

Hill - Direct

1 questions.

2 THE COURT: Understood. Sustained.

3 BY MR. SHIN:

4 Q. Could you describe for the jury what you did to find this
5 additional information?

6 A. I Googled "Anthony Murgio arrested".

7 Q. Was that difficult to do?

8 A. Not at all.

9 Q. Now, do you recall testifying yesterday that Yuri Lebedev
10 also worked for Coin.mx and was also on the board with you at
11 HOPE Federal Credit Union?

12 A. Yes.

13 Q. How did you first come in contact with Mr. Lebedev?

14 A. Via emails while working at Coin.mx.

15 Q. Did you come to meet Mr. Lebedev in person?

16 A. Eventually, yes.

17 Q. Could you just describe how it was that you met him?

18 A. I met him twice; once around Halloween of 2014, and then
19 again in November of 2014.

20 Q. Mr. Hill, when did you work at Coin.mx?

21 A. From 2014 to 2015.

22 Q. Did you complete any training when you started working
23 there?

24 A. Yes.

25 Q. Could you just briefly describe that training?

H2NOLEB2

Hill - Direct

1 A. The training was about the back end of Coin.mx, how to
2 manage the account creation, how to manage transfers,
3 withdrawals, deposits, and how to use the customer support chat
4 area.

5 Q. How was that training delivered to you?

6 A. I was given a link to follow. All the training was on the
7 website, and you just go through all the information.

8 Q. You said it was on the website. What website was it on?

9 A. Collectpma.com.

10 Q. It was not on the Coin.mx website?

11 A. No.

12 Q. Were these training materials publicly accessible?

13 A. No.

14 Q. How was it that you were able to access it?

15 A. I was given the link from my boss, Anthony Murgio.

16 Q. What were your duties and responsibilities at Coin.mx?

17 A. I managed the back end, I approved deposit and withdrawals
18 and Bitcoins transactions, I helped the chat support agents
19 with questions that they couldn't answer themselves.

20 Q. How much did you earn while working at Coin.mx?

21 A. About \$2,000 a month.

22 Q. In addition to Anthony Murgio and Yuri Lebedev, who you've
23 already mentioned, did you work with any other people at
24 Coin.mx?

25 A. Yes. I worked with Jen Wotherspoon, and eventually Jose

H2NOLEB2

Hill - Direct

1 Freundt. We also had a few chat support agents; Eric, JD.

2 Q. Did you work with any individuals in other functions at
3 Coin.mx, in other departments of Coin.mx?

4 A. In other departments? No.

5 Q. So when you encountered technical problems, did you contact
6 or work with any people?

7 A. Yes.

8 Q. Who were those people?

9 A. Our developers at Coin.mx and Yuri Lebedev.

10 Q. Do you remember the names of any of those people in
11 addition to Yuri Lebedev?

12 A. I don't remember. I don't even remember like email
13 addresses. We would send out problems and issues to the
14 emails.

15 Q. Do you know where they were located, the technical people?

16 A. In Russia.

17 Q. Did you work with any individuals from an accounting
18 department?

19 A. Yes.

20 Q. Do you remember their names?

21 A. I remember Eva.

22 Q. Now, did Anthony Murgio answer to anyone with respect to
23 Coin.mx?

24 A. Yes.

25 Q. Who was that?

H2NOLEB2

Hill - Direct

1 A. His name was Vlad.

2 Q. Do you know anything else about this person named Vlad?

3 A. Only that he spoke with a Russian accent.

4 Q. How is it that you know that Anthony Murgio answered to
5 Vlad?

6 A. I've been in the office with Murgio while on the conference
7 call, and I can hear him barking orders at Anthony, and Anthony
8 accepted those, so that's what led me to believe that he
9 answered to Vlad.

10 Q. What role did Yuri Lebedev have at Coin.mx?

11 A. He was a top-level tech guy, if our developers had an issue
12 that they couldn't fix, we would attach Yuri to the email, and
13 he would direct them to fixing the issue or do it himself.

14 Q. Now, when you first started at Coin.mx, where did you work?

15 A. From home on my laptop.

16 Q. You didn't work in an office?

17 A. No.

18 Q. Did Coin.mx have any offices at that time when you started?

19 A. Yes. They had an office in Orlando, Florida where a couple
20 of the chat support agents worked at.

21 Q. Now, did there come a time when Coin.mx opened any
22 additional offices?

23 A. Yes. We eventually opened an office in Tallahassee,
24 Florida where I then began working out of.

25 Q. And about when was that?

H2NOLEB2

Hill - Direct

1 A. In July of 2014.

2 Q. Now, Mr. Hill, could customers purchase Bitcoins on
3 Coin.mx?

4 A. Yes.

5 Q. And were there any initial steps they had to take in order
6 to do so?

7 A. Yes. You had to, one, create an account with the general
8 information, you had to be a part of the Collectables Club
9 association, and you would sign a membership agreement, and
10 then you would have to use a debit card or credit card to
11 deposit funds on Coin.mx. And once that was approved, you can
12 then transfer -- you could then exchange your USD that you
13 deposited for Bitcoin.

14 Q. You referred to the Collectables Club in your answer.

15 A. Yes.

16 Q. What is the Collectables Club?

17 A. Collectables Club was the parent company of Coin.mx.

18 Q. Did you hear that phrase "parent company of Coin.mx" from
19 anyone?

20 A. Yes, Anthony Murgio.

21 Q. Now, in connection with your work at Coin.mx, did you ever
22 work with selling stamps?

23 A. No.

24 Q. Antiques?

25 A. No.

H2NOLEB2

Hill - Direct

1 Q. Any other kind of memorabilia?

2 A. No.

3 Q. Did you ever attend meetings of the Collectables Club?

4 A. No.

5 Q. Did you ever, for example, pack up memorabilia to ship out
6 to customers?

7 A. No.

8 Q. So you described earlier that once a customer created a
9 Coin.mx account, they could then use their debit or credit
10 cards; is that correct?

11 A. Yes.

12 Q. Do you know how Coin.mx processed credit and debit card
13 transactions?

14 A. I don't know how, but we used the processor from another
15 country.

16 Q. Do you remember what that other country was?

17 A. It was in Azerbaijan.

18 Q. How is it that you know that there was another country,
19 Azerbaijan, that was involved?

20 A. Well, dealing with customers that had complaints about the
21 charge on their credit card showing up from an outside country,
22 I then learned where our processor was.

23 Q. Did Coin.mx have an office in Azerbaijan?

24 A. No.

25 Q. Now, in general, do you know what the Coin.mx customers

H2NOLEB2

Hill - Direct

1 were using the Bitcoins for once they purchased them?

2 A. Yes.

3 Q. Could you explain that to the jury, please?

4 A. Well, I learned that some customers used Bitcoin to
5 purchase products from Black Market sites. I also learned that
6 some customers used Bitcoins to purchase from merchants who
7 accepted Bitcoin, and I also learned that some customers used
8 Bitcoin to pay for Ransomware when their files were encrypted.

9 Q. Of those examples you cited, was any one of those more
10 common than the others?

11 A. Yes. We had a ton of customers who would pay for
12 Ransomware when their files were encrypted.

13 Q. Now, while you were working at Coin.mx, did you become
14 aware of Coin.mx bank accounts being closed down?

15 A. Yes, a couple of times.

16 Q. Who did you learn that from?

17 A. Anthony Murgio.

18 Q. What did he say about it?

19 A. That our accounts were closed because there was customers
20 attempting to make deposits, and the "what the deposit was for
21 feel", they were to purchase Bitcoins.

22 Q. Now, Mr. Hill, you testified earlier that you were involved
23 in wire fraud and bank fraud?

24 A. Yes.

25 Q. And generally speaking, what was the conduct underlying the

H2NOLEB2

Hill - Direct

1 wire fraud and the bank fraud you were involved with?

2 A. We would have three-way calls with our customers and their
3 bank in an effort to increase the limits that they can spend
4 with Coin.mx, but prior to patching in the bank on the call we
5 would let the customers know not to mention Bitcoin. And then,
6 of course, when we have the bank official on the line, I
7 wouldn't tell them that the customers were purchasing Bitcoin.

8 Q. So you omitted telling the banks about Bitcoin?

9 A. Yes.

10 Q. Did you affirmatively tell them anything in the
11 alternative?

12 A. Yes. I would let them know that the customers were
13 purchasing products and services from us, or paying for
14 membership fees, collectibles, and memorabilia.

15 Q. Did you instruct the customers similarly?

16 A. Absolutely.

17 Q. And when you say you were calling the banks, what banks are
18 we talking about?

19 A. General banks; Bank of America, Chase, any bank that a
20 customer had a bank card or debit card from. There was really
21 no limit to what banks we were calling.

22 Q. You said bank card, debit card, also credit cards?

23 A. Credit cards, yes.

24 Q. Now, you testified that this was in connection with
25 increasing customers' limits at Coin.mx so they could spend

H2NOLEB2

Hill - Direct

1 more?

2 A. Yes.

3 Q. Were there any other reasons for making these calls?

4 A. Yes. We also made those three-way calls with the customers
5 to their bank to rescind chargebacks. A number of customers
6 would initiate a chargeback when they didn't recognize the
7 charge on their bank statement.

8 Q. Who at Coin.mx was involved in making these calls?

9 A. Myself, Jen Wotherspoon, and eventually Jose Freundt. He
10 began working with us later.

11 Q. And about how often would you make these sorts of calls
12 collectively?

13 A. At least five to ten times a day.

14 Q. Now, the approach that you described and what you told the
15 credit card companies, did you learn how to do that from
16 anyone?

17 A. Yes. Anthony Murgio gave us a script so we wouldn't
18 mention Bitcoin.

19 Q. Did he ever explain to you why you should use that
20 approach?

21 A. Yes. Banks don't like Bitcoin and wouldn't allow their
22 customers to use their debit cards or credit cards on our
23 website.

24 Q. Now, Mr. Hill, did there come a time when Anthony Murgio
25 contacted you about taking over a credit union?

H2NOLEB2

Hill - Direct

1 A. Yes.

2 MR. SHIN: Ms. Grant, if you could please publish for
3 the jury Government's Exhibit 1089 in evidence?

4 Q. Mr. Hill, do you recognize this document?

5 A. Yes, I do.

6 Q. Just generally, what is it?

7 A. It's an email from Anthony Murgio to myself about HOPE
8 Credit Union.

9 Q. Could you describe the content of the email, please?

10 A. He asked me would I be interested in being on the board of
11 directors of a credit union, and I let him know I definitely
12 was.

13 Q. Why were you interested?

14 A. Why was I interested?

15 Q. Mm-hmm.

16 A. I knew that having access to the credit union would extend
17 the -- would extend our platform in a way that it would make it
18 easier for our customers at Coin.mx to make deposits and
19 withdrawals, as we were having issues with their bank cards and
20 credit cards.

21 Q. Had you always wanted to be on the board of a credit union?

22 A. I hadn't ever thought about being on the board of a credit
23 union.

24 Q. When Anthony asked you to serve on the board of a credit
25 union, do you know if he was aware of your criminal history?

H2NOLEB2

Hill - Direct

1 A. Yes.

2 Q. How do you know that?

3 A. I knew him for a long time, and at the restaurant he --
4 we've had talks about my past.

5 Q. Including your criminal history?

6 A. Yes.

7 MR. SHIN: Ms. Grant, you can take that down. Thank
8 you.

9 Q. So what did Anthony Murgio tell you, if anything, about why
10 he wanted to take over a credit union?

11 A. It would extend the functionality of our platform, and it
12 would -- again, it would make it easier for our customers to
13 make deposits and withdrawals. We were having issues with a
14 lot of bank cards and debit cards that would just not go
15 through, and this would irradiate that issue.

16 Q. So Mr. Hill, in your answer you used "our" and "us" and
17 "we" as various points. Who are you referring to in your
18 answer?

19 A. Coin.mx.

20 Q. Did you learn from Mr. Murgio that he had a particular
21 credit union in mind?

22 A. Yes.

23 Q. What was it?

24 A. HOPE Federal Credit Union.

25 MR. SHIN: Ms. Grant, if you could please publish for

H2NOLEB2

Hill - Direct

1 the jury 1099 in evidence?

2 Q. Mr. Hill, do you recognize this document?

3 A. Yes, I do.

4 Q. Is it correct that this is an email exchange between you
5 and Anthony Murgio?

6 A. Yes, it is an email from Anthony to myself.

7 MR. SHIN: Ms. Grant, if you could highlight in the
8 bottom email the paragraph starting with "I went to New
9 Jersey". Yes, there you go.

10 Q. Mr. Hill, if you could just read that paragraph for the
11 jury, please.

12 A. "I went to New Jersey to meet with them. Very nice guys.
13 Passover church. We came to an agreement that we would be able
14 to have control over the credit union."

15 Q. Now, did Anthony Murgio offer to pay you anything for
16 serving on the board?

17 A. Yes, 5,000 a year. I would receive like \$416 a month.

18 Q. Now, did you subsequently learn how Murgio planned to take
19 over the credit union?

20 A. Yes.

21 Q. Before we get into the plan, how did you learn of the plan?

22 A. He let me know, myself and others, other friends and
23 colleagues of his that he invited to be on the board.

24 Q. Did he inform you and others in person or in some other
25 setting?

H2NOLEB2

Hill - Direct

1 A. Over a conference call that we were all on.

2 Q. Was there one call or more than one call?

3 A. There was multiple calls.

4 Q. Who were the other individuals on these calls that you
5 referred to as the "proposed board members"?

6 A. Myself, Jose Freundt, Tim Ellrich, Yuri Lebedev, Kevin
7 Tomasso, Chad Leo, Kendra Pannitti.

8 Q. What, if anything, did you all have in common?

9 A. We were all friends or colleagues of Anthony Murgio.

10 Q. So in general terms, what was the plan?

11 A. The plan was for us to make payments to Trevon Gross and
12 Hope Cathedral, and in turn take full control of the credit
13 union.

14 Q. So if we just take that one step at a time. You referred
15 to "payments".

16 A. Yes.

17 Q. Could you describe what the plan of payments were?

18 A. Yeah. The payments would be sent in intervals over the
19 next six to eight months.

20 Q. Do you recall what the total payments was that was planned?

21 A. Yes. 150 to 200K.

22 Q. To be clear, to whom would the payments be made?

23 A. To Trevon Gross and Hope Cathedral.

24 Q. That's the church?

25 A. That's the church, yes.

H2NOLEB2

Hill - Direct

1 Q. Now, so let's talk about the other half of this plan. How
2 is it that Murgio would actually get control of the credit
3 union?

4 A. Trevon would ensure that we were nominated to be voted on
5 the board, and then we would have the vote, and in turn,
6 eventually have complete control of the credit union.

7 Q. And who would select the individual board members that
8 would be nominated?

9 A. Who would select?

10 Q. Who picked you and the other proposed board members?

11 A. Trevon Gross.

12 Q. Who actually chose who the people were that would serve on
13 the board?

14 A. Anthony Murgio.

15 Q. And then who was involved, under this plan, who would be
16 involved in actually getting you and these other people onto
17 the board?

18 A. Trevon Gross.

19 Q. Now, under this plan, after you and the other friends of
20 Murgio were elected to the board, what was going to happen to
21 the existing board members?

22 A. They would eventually resign.

23 Q. Was there a timeframe that was discussed?

24 A. Yes. It was two to three months later.

25 Q. Was there ever any discussion of why they would resign two

H2NOLEB2

Hill - Direct

1 to three months later rather than immediately?

2 A. Yes. The NCUA who regulates the credit unions were having
3 our annual -- the annual examination, and they would usually
4 return a month later to report their findings. Trevon let us
5 know that it wouldn't look good for them to return a month
6 later and see a whole new board.

7 Q. Now, do you recall testifying earlier about how Anthony
8 Murgio instructed you not to mention Bitcoin to credit card
9 companies, banks --

10 A. Yes.

11 Q. -- because they don't like Bitcoin?

12 A. Correct.

13 Q. Now, during these conference calls that you had with Murgio
14 and the other proposed board members, did Murgio ever say to
15 you 'Don't mention Bitcoin to anyone at HOPE Federal Credit
16 Union'?

17 A. No.

18 Q. Did he ever say 'Don't mention Coin.mx to anyone at HOPE
19 Federal Credit Union'?

20 A. No.

21 Q. At any point during your involvement with HOPE Federal
22 Credit Union, did Murgio ever tell you 'Don't mention Bitcoin
23 or Coin.mx to anyone from HOPE Federal Credit Union'?

24 A. No, not at all.

25 Q. What were the eligibility requirements for becoming a

H2NOLEB2

Hill - Direct

1 member of HOPE Federal Credit Union?

2 A. You had to either live, work, or worship in Lakewood,
3 New Jersey.

4 Q. So at the time you were approached by Anthony Murgio and
5 had these discussions with him and the other proposed board
6 members, where were you living?

7 A. In Tallahassee, Florida.

8 Q. And where were you working?

9 A. In Tallahassee, Florida.

10 Q. Did you worship in Lakewood, New Jersey?

11 A. No.

12 Q. Had you ever even been to New Jersey prior to that?

13 A. No.

14 Q. Do you know where the other proposed board members lived?

15 A. Yes, most of them.

16 Q. Let's go through them. Where did Jose Freundt live?

17 A. In Tallahassee, Florida.

18 Q. Kevin Tomasso?

19 A. In Tallahassee, Florida.

20 Q. Yuri Lebedev?

21 A. In Jacksonville, Florida.

22 Q. Tim Ellrich?

23 A. He used to live in Tallahassee, Florida, but I learned that
24 he moved to Tennessee.

25 Q. Chad Leo?

H2NOLEB2

Hill - Direct

1 A. In Jacksonville, Florida.

2 Q. And Kendra Pannitti?

3 A. I did not know where Kendra lived.

4 Q. And so at this time, where was the Collectables Club, the
5 so-called parent company of Coin.mx, where was the Collectables
6 Club based?

7 A. In Tallahassee, Florida.

8 Q. Did it have any presence in Lakewood, New Jersey?

9 A. No.

10 Q. Did it have an office in Lakewood, New Jersey?

11 A. No.

12 Q. Did it have any employees who worked there?

13 A. No.

14 Q. So when you learned the plan to take over the credit union
15 from Anthony Murgio, did it seem like a legitimate business
16 transaction to you?

17 A. No, it did not.

18 Q. Why not?

19 A. Making payments to an individual in a church to take over a
20 credit union, I mean, that was obviously not a legitimate
21 business deal.

22 Q. Was there anything else about this plan that led you to
23 believe that it wasn't a legitimate business deal?

24 A. First, to be members of the credit union, it was stated you
25 had to live, work, or worship in Lakewood, New Jersey; we did

H2NOLEB2

Hill - Direct

1 neither.

2 Q. Now, did you ultimately accept Anthony Murgio's offer to
3 join the board of HOPE FCU?

4 A. Yes.

5 Q. So leading up to becoming a board member, did you provide
6 any information?

7 A. Yes, I did.

8 Q. What information was that?

9 A. My resume, my contact information, and a copy of my
10 Florida's driver's license.

11 Q. I'm sorry. A copy of what driver's license?

12 A. My Florida driver's license.

13 Q. To whom did you provide that information?

14 A. To Trevon Gross.

15 Q. Do you know whether similar information was provided by the
16 other proposed board members?

17 A. Yes. All of us had to submit the same info.

18 Q. To whom?

19 A. To Trevon Gross.

20 MR. SHIN: Ms. Grant, if you could please publish for
21 the jury 1110 in evidence?

22 Q. Mr. Hill, what's happening in this email?

23 A. This is an email from Anthony to all of us about the info
24 that we needed to have on file.

25 Q. Could you please read in the first paragraph. Could you

H2NOLEB2

Hill - Direct

1 please read starting with "if you have any"? Could you read
2 those two sentences?

3 A. "If you have any previous banking or financial sector
4 experience, please make sure that is on the resume. If you
5 have any financial degree, please also include that on the
6 resume."

7 Q. Did you have any previous banking experience?

8 A. No, I did not.

9 Q. Did you have any previous financial sector experience?

10 A. No, I did not.

11 Q. Is it correct that one of your prior jobs was working at a
12 tax preparation business?

13 A. Yes.

14 Q. What was your role there?

15 A. I just managed the incoming clients, just getting them
16 signed up and prepared to go to meet with a tax preparer.

17 Q. Were you a tax preparer?

18 A. No.

19 Q. Did you have a financial degree?

20 A. No, I did not.

21 Q. Now, Mr. Hill, do you see toward the bottom of the email it
22 says "Chairman Jose, Secretary Rico, and Treasurer Yuri"?

23 A. Yes.

24 Q. What does that mean there, "Secretary Rico"?

25 A. I would be the secretary of the board of directors.

H2NOLEB2

Hill - Direct

1 Q. And what would your responsibilities be as secretary?

2 A. I would take the minutes at the board meetings and also
3 make sure that everybody was prepared for the meetings.

4 MR. SHIN: Ms. Grant, if you could please put up
5 1155-B in evidence? If you could flip down to the second page,
6 please? Actually, if you could flip to the next page, as well.

7 Q. So you see kind of at the bottom of 2 and the top of 3, you
8 see the list of individuals?

9 A. Yes. Yes, I do.

10 MR. SHIN: If you could come up to the prior page,
11 Ms. Grant?

12 Q. If you could just review what Jose Freundt wrote in the
13 middle of that page, and when you're ready to answer, if you
14 could describe, what was it that Jose Freundt urgently wanted?

15 Well, let me just ask it this way. In the second
16 sentence of that paragraph, do you see there where it says,
17 "The one with particular urgency is the membership
18 application"?

19 A. Yes.

20 Q. Did you complete that form in connection with becoming a
21 board member?

22 A. Yes.

23 Q. Do you recall what kind of information you provided in that
24 membership application?

25 A. Just my general info and along with account beneficiary.

H2NOLEB2

Hill - Direct

1 Q. What do you mean when you say "general info"?

2 A. My name, my address, my contact information.

3 MR. SHIN: If you could scroll up one, please? The
4 first page, please?

5 Q. Do you see at the bottom there, Chad Leo writes -- could
6 you just read what Chad Leo writes at the bottom?

7 A. Yes. "Trevon, I've refaxed my membership application.
8 Please confirm when you have a moment."

9 MR. SHIN: You can take that down, Ms. Grant.

10 Q. Now, before becoming a board member, did you, Anthony
11 Murgio, and the other proposed board members ever have
12 discussions with Trevon Gross?

13 A. Yes.

14 Q. One, or more than one?

15 A. More than one.

16 Q. What was discussed during these discussions?

17 A. Well, we were all introduced to Trevon, and Anthony Murgio
18 would talk about our plan for the credit union and why we
19 wanted to have it.

20 Q. Let's break that down. So you said you were introduced to
21 Trevon?

22 A. Yes.

23 Q. So just to be clear, was this a group call?

24 A. Yes, a conference call.

25 Q. So how were you introduced to Trevon?

H2NOLEB2

Hill - Direct

1 A. Each of us, each of us introduced our ourselves to him and
2 also let him know our relationship to Anthony Murgio.

3 Q. Was there any discussion of your professional backgrounds?

4 A. No.

5 Q. Going through your resumes?

6 A. No.

7 Q. Now, you also alluded to other information, other parts of
8 this discussion.

9 A. Yes.

10 Q. Could you please just explain what was discussed after you
11 introduced yourselves?

12 A. Just our plan going forward, and why we wanted a credit
13 union, and how it would extend the functionality of Coin.mx.

14 Q. Who was saying this on these calls?

15 A. Anthony Murgio.

16 Q. Was there any discussion of the Collectables Club during
17 this call?

18 A. Yes.

19 Q. And again, was Anthony Murgio speaking?

20 A. Yes.

21 Q. What did he say about the Collectables Club?

22 A. Just who we were, like we were -- Collectables Club is an
23 association, and we have a platform that our members can buy,
24 sell, and trade digital currency and digital assets.

25 Q. You testified that there was more than one call.

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Hill - Direct

1 A. Yes.

2 Q. Besides what you've already testified to, were there any
3 other topics discussed during any of these calls?

4 A. Any other topics?

5 Q. Yes. Besides introducing yourselves and explaining what
6 Collectables Club was.

7 A. Just getting prepared for the board meeting where we would
8 be voted in on.

9 Q. So apart from these calls with you, Murgio, the proposed
10 board members, and Trevon Gross, were you ever interviewed by
11 anyone from HOPE FCU as part of the process of becoming a board
12 member?

13 A. No, I wasn't.

14 Q. Did Trevon Gross or anyone else from HOPE FCU ever ask you
15 for your qualifications to serve as a board member?

16 A. No.

17 Q. Did you ever travel to New Jersey to visit HOPE FCU prior
18 to becoming a board member?

19 A. No.

20 Q. Do you recall when the election was for you and the other
21 board members?

22 A. It was in June of 2014.

23 MR. SHIN: Ms. Grant, if you could put up 1188-B in
24 evidence.

25 Q. If you could just read the bottom email under "Gentlemen

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1 and Lady"?

2 A. "Tomorrow is the annual meeting for the CU. All board
3 members will be elected at this time. I will be setting up a
4 Google hangout so we can all be there virtually. If you
5 attend, please let me know if you have any questions."

6 Q. Okay. And this is an email written by Anthony Murgio?

7 A. Yes.

8 Q. On June 20th?

9 If you could just read into the record --

10 THE COURT: Just a moment. You asked a question and
11 there was no response.

12 MR. SHIN: I'm sorry, your Honor. I forgot what the
13 last --

14 THE COURT: You said, "On June 20th?"

15 MR. SHIN: Right.

16 BY MR. SHIN:

17 Q. So was this email exchange on June 20th?

18 A. Yes.

19 MR. SHIN: Thank you, your Honor.

20 Q. Could you read into the record, Mr. Hill, who the
21 recipients of this email are?

22 A. Yes. Yuri Lebedev, Jose Freundt, myself, Tim Ellrich, Chad
23 Leo, Trevon Gross, Michael Murgio, Kendra Pannitti, and Kevin
24 Tomasso.

25 Q. Thank you.

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1 MR. SHIN: Ms. Grant, if you could please put up
2 1188-C in evidence.

3 Q. Is this the June 20th email?

4 A. Yes, it is.

5 Q. Could you please read the top email -- first, who wrote the
6 top email there?

7 A. It's from Trevon Gross to all of us.

8 Q. Could you please read what he wrote?

9 A. "Please log into your It's Me 247 account and cast your
10 vote. Voting ends at midnight tonight. If you need your
11 password reset please let me know. User name is your account
12 number."

13 MR. SHIN: You can take that down.

14 Q. Could you just generally describe for the jury what the
15 voting process was for this board election?

16 A. Yes. We would log into our accounts on It's Me 247, which
17 was the customer's version of logging into your bank account at
18 HOPE FCU, and we select the tab to vote for the upcoming
19 election, and then we all voted for each other, as you could
20 not vote for yourself.

21 Q. And by this point, in order to vote, had you already had an
22 account opened in your name?

23 A. Yes.

24 Q. Was that true of the other proposed board members, as well?

25 A. Yes. All of us, you had to have an account, an active

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1 account at HOPE FCU to place a vote.

2 Q. Who opened those accounts for you?

3 A. Anthony Murgio.

4 Q. Anthony Murgio actually opened them?

5 A. No, he funded them. Our accounts were created by Trevon
6 Gross.

7 Q. When you say "he funded them", what do you mean. When you
8 say "Anthony Murgio funded them", what do you mean?

9 A. They had to be active accounts, therefore, they had to have
10 a balance on them, so Collectables Club and Anthony Murgio
11 funded our accounts.

12 (Continued on next page)

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1 BY MR. SHIN:

2 Q. Again, just to be clear, because I think maybe there was a
3 little confusion there, who actually opened -- who created the
4 accounts for you?

5 A. Trevon Gross created the accounts.

6 Q. Did you actually vote?

7 A. Yes.

8 Q. Did you attend the board meeting the next day?

9 A. Via conference call, yes.

10 Q. Could you just describe how it was that -- you just said
11 "Via conference call." Can you just describe mechanically what
12 happened for your participation in the board meeting?

13 A. Myself and the proposed board members would all get on the
14 conference call first, and then we were patched in to Trevon
15 Gross and the meeting.

16 Q. When you say you and the other proposed board members would
17 get on the conference call first --

18 A. Yes.

19 Q. -- who was on that first conference call?

20 A. Myself, Anthony Murgio, Tim Ellrich, Yuri Lebedev, Jose
21 Freundt, Kendra Pannitti, Kevin Tomasso. I don't remember if
22 Michael Murgio was on that call initially.

23 Q. And then you made reference to patching in?

24 A. Yes.

25 Q. What was your group of people on the call then patching

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1 into?

2 A. To a conference that was Trevon and the board members, the
3 current board members.

4 MR. SHIN: Ms. Grant, if you could please put up
5 Government Exhibit -- actually, before we do that:

6 Q. Could you just generally describe what happened during the
7 board meeting?

8 A. Yes. Trevon called the meeting to order, they went over
9 their monthly reports, and then it eventually got to the
10 election. Trevon recounted -- I mean gave an account of the
11 election results, and we were all named as board members.

12 MR. SHIN: Ms. Grant, if you could please put up 6086
13 in evidence.

14 Q. Are these the June 21st, 2014 board minutes of HOPE FCU?

15 A. Yes.

16 MR. SHIN: Ms. Grant, if you could highlight the list
17 of attendees at the top.

18 Q. Could you tell, from your participation on the call, who
19 was present from the HOPE FCU side?

20 A. No, I couldn't tell on their call, except Trevon, he was
21 the only one speaking, or those who gave the reports, but I
22 don't remember what individuals gave what report.

23 MR. SHIN: You can zoom out, please.

24 And if you could turn to page 2, please. If you could
25 zoom in on the "Board of Elections" section, please.

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1 Q. Could you just read that section into evidence, please?

2 A. Yes. "The slate of new board members introduced themselves
3 with a brief bio via visual conference (See attached).

4 Election of board members annual meeting notice and new board
5 of director ballot were previously presented to all members
6 online. Based on the electronic voting tally, the current
7 board recommends that the slate of new board members of HOPE
8 FCU board be closed, the new slate of HOPE FCU board of
9 directors be approved, and by common consent, direct the
10 secretary to" east "one vote to elect all the new board
11 members. Resolution passed."

12 Q. I think you said "secretary to east one." Is it possible
13 that that says to cast one?

14 A. To cast, yes. It just looks weird here.

15 Q. It's blurry.

16 A. Yeah.

17 MR. SHIN: You can zoom out, please.

18 If you could go to the attachment, please, Ms. Grant.

19 If you could zoom in on that.

20 Q. Do you see there a list of people that says, "The following
21 members are recommended for election of a," and then it has a
22 list?

23 A. Yes.

24 Q. Is it your understanding that these were the individuals
25 who were voted on and elected as members of the board?

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1 A. Yes.

2 Q. If you could just read -- I'll highlight certain ones.
3 What's the name next to 01?

4 A. Trevon Gross.

5 Q. 08?

6 A. Ricardo Hill, myself.

7 Q. 10?

8 A. Yuri Lebedev.

9 Q. Is Anthony Murgio listed anywhere on this as someone who
10 was elected?

11 A. No.

12 Q. He wasn't proposed to be a board member?

13 A. Correct, he wasn't.

14 Q. Why not?

15 A. Why not?

16 Q. Did Anthony Murgio ever tell you why he wasn't going to
17 serve on the board?

18 A. No.

19 Q. Did you have an understanding of why he wouldn't serve on
20 the board?

21 MR. CREIZMAN: Objection.

22 MR. KLINGEMAN: Objection; foundation.

23 THE COURT: Just answer directly the question, which
24 is a yes-or-no question: Did you have any understanding of why
25 he wouldn't serve on the board?

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1 THE WITNESS: No, I don't.

2 MR. SHIN: You can take that down, please, Ms. Grant.

3 If you could please put up 1191 in evidence.

4 BY MR. SHIN:

5 Q. Who is this email from?

6 A. It's from Anthony.

7 Q. You received this email?

8 A. Yes, I did.

9 Q. And Yuri Lebedev is also a recipient of this email?

10 A. Yes, he is.

11 Q. And you will see here that actually says, "bcc: Shoula
12 Cohen, Mark Francis." Do you see that?

13 A. Yes.

14 Q. When you received this email, were you aware that this was
15 being sent to those people?

16 A. No.

17 Q. Could you please read the first paragraph under "Hello,
18 all."

19 A. "You are officially board members. The discussed pay will
20 start monthly. Your first payment will be August 1st for all
21 of July. Once again, if you are interested in having a
22 full-time position to help increase CU revenue, we can figure
23 something out. Please get in contact with me. Looking forward
24 to business and personal membership growth. Regards, Anthony."

25 MR. SHIN: You can take that down, Ms. Grant.

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1 Q. After the meeting -- after the vote and then the meeting
2 that you called into of the HOPE FCU board, what was your
3 understanding of whether you were then a board member?

4 A. I was a board member.

5 Q. After that board meeting that we just looked at the minutes
6 of --

7 A. Uh-huh.

8 Q. -- did Trevon Gross treat you as a board member?

9 A. Yes.

10 MR. SHIN: I'm sorry, Ms. Grant, would you mind just
11 putting that up one more second, the one we were just looking
12 at, 1191. Thank you.

13 Q. So we looked at that bcc line, Shoula Cohen and Mark
14 Francis. Do you recognize those names?

15 A. Yes, I do.

16 Q. And do you recognize that domain, kapitalinc.com?

17 A. Yes.

18 Q. Who are those people?

19 A. They are employees at Kapcharge.

20 Q. And Kapital Inc., does that have something to do with
21 Kapcharge?

22 A. Yes. That's just a corporate email. Kapcharge is the same
23 company as Kapital Inc.

24 Q. We'll return to that later.

25 MR. SHIN: You can take that down.

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1 THE COURT: Mr. Shin, let's take our mid-morning break
2 here.

3 MR. SHIN: Thank you.

4 THE COURT: Ladies and gentlemen of the jury, we'll
5 take about a ten-minute break. Enjoy your break.

6 (Continued on next page)
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1 (Jury not present)

2 THE COURT: Any matters to take up? No?

3 MS. CHOI: Not from the government.

4 THE COURT: All right. We'll return in about eight
5 minutes, and I will check in and make sure there are no
6 matters. If not, we'll get the jury. Thank you. Enjoy your
7 break.

8 (Recess)

9 THE COURT: Anything to take up, counsel?

10 MR. NOBLE: I think we do have an issue, your Honor,
11 that's come to our attention.

12 THE COURT: All right. Go ahead.

13 MS. CHOI: Your Honor, as you know, the parties have
14 been working over the course of the last few months on
15 stipulations that would, with regard to certain business
16 records, preserve the ability for the defense to assert, under
17 relevance grounds or 403 grounds, that they shouldn't be
18 admitted, but otherwise be admitted as evidence.

19 THE COURT: Right.

20 MS. CHOI: As an accommodation to defense counsel, I
21 asked, many moons ago, if there are specific witnesses for
22 which they would need, in addition to the stipulation, a
23 witness because they would want to cross-examine, and as an
24 accommodation, the Bank of America witness was one that
25 Ms. Santillo had identified to us as someone they would like to

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1 make their point.

2 I just had a conversation with defense counsel in
3 which Mr. Klingeman indicated that he would object to the
4 publishing of documents for which the parties had stipulated
5 were business records and object to their being published to
6 the jury without having a witness from the entity present. We
7 made this accommodation --

8 THE COURT: For Bank of America?

9 MS. CHOI: No, for PNC Bank, which are the records
10 that are the corresponding records from Hope Cathedral.

11 Your Honor, we made those arrangements with regard to
12 Bank of America because they asked for it weeks ago. We've
13 planned around the fact that we would have stipulations that
14 would lay the foundation to allow us to publish and argue about
15 these exhibits to the jury. I understand that Mr. Klingeman
16 now wants a witness. And what we would like to know is whether
17 or not there are other documents for which they have already
18 stipulated that there is a foundation for them to be entered
19 into as business records for which they want a witness.

20 The reason why this is an issue is, we have let PNC
21 know we didn't need them as a witness on reliance of defense
22 counsel's representations. It's not easy for us to get
23 witnesses available, and I think there really isn't a basis for
24 which they can argue that we are not allowed to publish
25 exhibits for which they have stipulated there is admissible

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1 ground to the witnesses. That would include not only bank
2 documents and business records that we've already stipulated
3 to, but there's also stipulations regarding IRS documents,
4 Department of Homeland Security documents, and other documents.

5 And I think if your Honor -- I don't think there's a
6 basis for this objection from defense counsel. If your Honor
7 were to rule in defense's favor, I think there has to be some
8 sort of accommodation to the government in order to try to get
9 these witnesses. It's very hard to line them up. These are
10 witnesses that we have --

11 THE COURT: Okay, okay. I get it.

12 Mr. Klingeman?

13 MR. KLINGEMAN: Your Honor --

14 THE COURT: Microphone.

15 MR. KLINGEMAN: Your Honor, our agreement to the
16 applicability of the rules of evidence to the government's
17 exhibits extended to noncontroversial matters, such as
18 establishing something -- the basic foundation of a business
19 record or authenticity and other foundational matters, and that
20 stands.

21 THE COURT: Reserving your right to --

22 MR. KLINGEMAN: Reserving our right --

23 THE COURT: Let me finish my sentence.

24 MR. KLINGEMAN: I'm sorry, your Honor.

25 THE COURT: Reserving your right to make other

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1 evidentiary objections?

2 MR. KLINGEMAN: Yes.

3 THE COURT: And otherwise indicating if you wanted a
4 witness present?

5 MR. KLINGEMAN: Yes. And the latter is of the utmost
6 importance because that is a condition that I placed on these
7 stipulations in conversations with the government from jump
8 street.

9 Here's my concern: If the government, with no notice,
10 as there wasn't any this morning, intends to publish a document
11 to the jury and nakedly offer it without any highlighting,
12 without any scrolling, without any explanation, I --

13 THE COURT: Well, let's just backtrack. So this was
14 the document -- I can't recall the number, but it's a PNC Bank
15 record?

16 MS. CHOI: Yes, your Honor. It would be several PNC
17 Bank records, but the specific one that we were referencing was
18 the wire transfer documents that would have been the inverse of
19 what the Bank of America witness had testified to, and it would
20 have been in response to Mr. Klingeman's line of cross.

21 THE COURT: I get it. I get it.

22 So this was a document you were aware of?

23 MR. KLINGEMAN: Oh, sure.

24 THE COURT: And you had specifically requested a Bank
25 of America, but not a PNC witness; is that correct?

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1 MR. KLINGEMAN: We -- no -- yes.

2 THE COURT: Well, is it no or yes?

3 MR. KLINGEMAN: I'm not sure I understand the
4 question.

5 THE COURT: Well, they had a Bank of America witness
6 here. I understand that's because you requested a Bank of
7 America witness?

8 MR. KLINGEMAN: Yes.

9 THE COURT: You didn't make a comparable request with
10 respect to the PNC witness?

11 MR. KLINGEMAN: Not up to this time.

12 THE COURT: Well, we'll get to that.

13 What was your understanding of what you were
14 stipulating to with respect to the PNC documents?

15 MR. KLINGEMAN: That they were business records, and
16 that we weren't going to object on foundational grounds.

17 THE COURT: But that you could make other evidentiary
18 objections?

19 MR. KLINGEMAN: And insist on the attendance of a
20 witness.

21 THE COURT: So you don't have other evidentiary
22 objections?

23 MR. KLINGEMAN: Well --

24 THE COURT: For example, to the document that they
25 tried to publish today.

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1 MR. KLINGEMAN: I do, in terms of 403, which we
2 preserve with respect to every stipulated exhibit.

3 THE COURT: I'm just asking if you have an objection.

4 MR. KLINGEMAN: Yes, yes.

5 THE COURT: You have a 403 objection to the PNC
6 document?

7 MR. KLINGEMAN: Yes.

8 THE COURT: And what's that?

9 MR. KLINGEMAN: I'm assuming, in response to my
10 cross-examination of the witness this morning, the government
11 is going to purport to offer this exhibit and then highlight
12 portions of it, including information concerning the wire, and
13 argue to the jury perhaps that somehow Mr. Gross had knowledge
14 of the contents of this document or could have had knowledge of
15 the contents of this document if he had gone to PNC, as we
16 discussed with the Bank of America witness, and asked for the
17 records and then reviewed them.

18 THE COURT: When did you ask for the Bank of America
19 witness to be present?

20 MR. KLINGEMAN: Pretrial. Sometime pretrial.

21 THE COURT: And what was your understanding of the
22 time?

23 MR. KLINGEMAN: We never made an agreement. This is
24 trial, it's fluid. We have no idea what's coming next.

25 Let me get to the point, your Honor: This evidence is

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1 going to be offered by the government to try to establish
2 venue.

3 THE COURT: Sure.

4 MR. KLINGEMAN: Not jurisdiction, venue.

5 THE COURT: Right.

6 MR. KLINGEMAN: Not Commerce Clause -- not meeting the
7 Commerce Clause, venue.

8 THE COURT: Right. And that's why you wanted the Bank
9 of America witness here, right?

10 MR. KLINGEMAN: Right, because we want to make clear
11 to the jury in terms of venue and to the Court in terms of Rule
12 29 in terms of venue that the defendant on trial has to have
13 some knowledge.

14 THE COURT: I understand. And you'll make your
15 arguments, and these were previewed in the earlier motions.

16 MR. KLINGEMAN: And in the absence of a witness, the
17 PNC document is going to be used by the government to establish
18 the defendant's knowledge.

19 THE COURT: What I'm not going to allow is some
20 gamesmanship around who you indicated you needed here and who
21 you gave the impression you did not need here. So I'm guarding
22 against that. Who do you want here -- with respect to
23 stipulations that you've made, custodial stipulations, who do
24 you want here as custodian?

25 MR. KLINGEMAN: I don't know. I want a PNC Bank

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1 witness in response to the specific issue being presented to
2 the jury. I can't possibly forecast -- the government has
3 marked, your Honor, literally thousands of exhibits. I can't
4 tell anyone at this point --

5 THE COURT: Look, you knew --

6 MR. KLINGEMAN: I'm trying --

7 THE COURT: You knew venue was an issue, you're making
8 it an issue. You knew enough to know that you wanted the Bank
9 of America witness here, so they had notice and arranged for
10 it. It seems to me you, therefore, knew that the PNC
11 documents, or ought to have known, would be comparably
12 relevant, and you either failed to or chose not to request a
13 PNC witness here.

14 Now, I'm going to see if it can be accommodated
15 without affecting the trial, but it's troublesome.

16 MR. KLINGEMAN: Well, I object to the Court's
17 attribution of gamesmanship or any other ill intent on behalf
18 of defense. We have struggled to accommodate the schedule of
19 the Court and to be mindful of the Court's admonitions to us,
20 and I reject that, I object to it. I have worked hard to honor
21 the Court's direction, I've worked hard with the government,
22 and there's no gamesmanship here, your Honor. I'm simply
23 reacting to evidence as it's coming in before the jury or
24 offered before the jury.

25 THE COURT: You, nonetheless, will have to live with

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1 stipulations that you've made --

2 MR. KLINGEMAN: I do.

3 THE COURT: -- if what you failed to do is identify
4 witnesses that you need here, and they can't be brought here.

5 Who else, other than a PNC witness?

6 MR. KLINGEMAN: I don't know.

7 THE COURT: Well, you will work hard to think who else
8 you might need, so that they can be requested in time.

9 MR. KLINGEMAN: Of course. We have been working hard
10 every second.

11 THE COURT: So by tomorrow, you will let us know.

12 You'll work, Ms. Choi, on getting a PNC witness?

13 MS. CHOI: Yes, your Honor. I just want to note for
14 the record that there are -- we had sent a series of
15 stipulations early, sort of in anticipation of early 3500
16 production to the defense. We then had some revisions.
17 Ms. Santillo has been working hard. I don't want to give the
18 misimpression that this is -- I just want to note that I
19 understand Ms. Santillo's been working very hard to get through
20 these documents and these stipulations.

21 There are still two of note that she has not executed,
22 or reexecuted, the IRS stipulation as to IRS records and the
23 DHS stipulation as to DHS records. They had already agreed to
24 this. If they're now going to ask that we get witnesses, I'd
25 also like a representation from counsel tomorrow about which of

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1 those witnesses we also need to prepare and anyone that's
2 listed in any of the bank or business record or any of the
3 stipulations, because this is going to -- it took us weeks --
4 it's still taking us time to try to get a lot of these
5 witnesses lined up, it's a lot of effort, and we need to start
6 working on that immediately.

7 MR. KLINGEMAN: I couldn't agree more. And here's my
8 problem: The Court has essentially accused me of gamesmanship.
9 So why am I not in a position of now saying I want a witness
10 for all of these documents? Because if I don't, and I make a
11 miscalculation as to who I need, then I'm going to be told I'm
12 engaged in gamesmanship.

13 I don't want a PNC Bank witness because I wanted one
14 two weeks ago.

15 THE COURT: Mr. Klingeman, first of all, I didn't
16 accuse you. I said I'm concerned about it.

17 MR. KLINGEMAN: Well, the Court expressed concern. I
18 take that very seriously.

19 THE COURT: And I'm concerned. I'm judging your body
20 language, you didn't stand up and say, your Honor, we made a
21 mistake, now I see the need, the necessity for a PNC witness
22 for this, and I want to raise that, and I'm going to talk to
23 the government and hope it can be worked out, we need to figure
24 out an accommodation, okay? That's not how you presented this.

25 MR. KLINGEMAN: I had no chance to do any of that.

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1 First of all, I don't believe I made a mistake. I'm trying is
2 to react in realtime to evidence that's coming before the
3 Court, but I hope I've established some kind of record with the
4 Court that we don't engage in gamesmanship, and I have to be
5 very defensive about that. I have a client here who's on
6 trial, and when the Court makes even an indirect assertion like
7 that, it cuts right to my responsibilities as an attorney.

8 I don't want to say to the government in the next 24
9 hours bring me a witness for every single group of documents
10 you have. I don't want this trial to go on for another six
11 months. I just want some ability to be able to react to what
12 they're doing.

13 THE COURT: Then, Mr. Klingeman, your response to me
14 should have been: I understand the concern, not I don't know
15 who I'll need, but I understand the concern, we're going to
16 work to think through this hard, and more, and again. And I
17 assure you it was not an effort to prohibit the government, or
18 mislead with respect to my stipulation, or any of those things.
19 It's not what I heard, and it's not what I'm reading from you,
20 and so I'm going to make sure that we can proceed.

21 And I have said repeatedly that I'm grateful for
22 everyone working through the stipulations. This trial is a
23 long time coming, a long time coming, everybody's had as much
24 time as they've requested to prepare. I get that it's a lot of
25 documents. I have provided resources with respect to every

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1 request. At some point you simply have to make these decisions
2 and move on. I haven't said you can't request the witnesses.
3 I, too, have to react to what I'm seeing and safeguard this
4 process.

5 I have not accused you of gamesmanship. I have said
6 I'm concerned about it. And at some point, we just have to get
7 through, we have to get through.

8 So, yes, there are a lot of documents, yes, there are
9 a lot of stipulations. It's time to make what it sounds like
10 were understood previously as final decisions about witnesses,
11 it's time to make predictions about what you need. If
12 something unexpected comes up, if something you couldn't have
13 foreseen comes up, or that was incredibly difficult to foresee,
14 and an accommodation be made, we'll do it.

15 MR. KLINGEMAN: Your Honor, every time something
16 challenging has come up, we have been able to work it out. And
17 if I had been given an opportunity -- while my attention is
18 totally focused on the critical witnesses on the stand, if I
19 had, nonetheless, been given an opportunity to reflect on this,
20 I'm sure I could come up with an accommodation. The problem
21 is, the government stood up spontaneously at the end of the
22 Bank of America's testimony and offered this document. I
23 objected. Your Honor sustained the objection.

24 THE COURT: Right.

25 MR. KLINGEMAN: And then, as I'm literally leaving the

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1 court to attend to my cross-examination, the government comes
2 at me with the very demand that the Court is now imposing on
3 me, that I identify every single witness from now on I want
4 brought to the case.

5 Here's the thing: I don't want a PNC Bank witness.
6 If we can get a stipulation that if a PNC Bank witness were to
7 testify, her testimony would be consistent with what the Bank
8 of America witness said, that's fine, then I don't need a
9 witness. But I just need a few minutes to think about it, talk
10 to the government, and accommodate the Court. And, instead,
11 I'm being put on the spot where the government is in my face,
12 your Honor hasn't accused me directly of gamesmanship, but has
13 used the term in connection with my behavior, and I'm at a
14 loss. I'm trying to do the best I can without doing injury to
15 the Court's schedule and the jury's time.

16 THE COURT: Well, it seems as though this has been
17 productive because you've suggested a possible stipulation that
18 might be worked out. So let's keep pursuing that process, but
19 you have parameters for thinking it through, thinking through
20 what the requests are, thinking through what's needed and
21 what's possible.

22 What else?

23 MS. CHOI: That's it, your Honor. We'll work with
24 Ms. Santillo and Mr. Klingeman to see what other witnesses they
25 would like by tomorrow, so that we can make efforts. I presume

H2NKLEB3

Hill - Direct

1 that the Court would accommodate if we would have to put that
2 in the middle of the defense case or whatever need be, it is
3 what it is. But if we can reach stipulations, so be it, that
4 would be fantastic.

5 THE COURT: Okay. Anything else?

6 MS. CHOI: Not from the government, your Honor.

7 THE COURT: All right.

8 Let's get our jury.

9 MR. SHIN: Shall we bring in the witness, your Honor?

10 THE COURT: Oh, we should.

11 Mr. Shin, you have a lovely demeanor. You're very
12 careful. If you could put your foot on the gas a little bit.
13 There are some pauses which extends the time, but also you lose
14 interest of the jury.

15 MR. SHIN: Understood, your Honor.

16 THE COURT: Foot on the gas.

17 MR. SHIN: I'll do my best. Thank you.

18 (Continued on next page)

H2NKLEB3

Hill - Direct

1 (Jury present)

2 THE COURT: Thank you, everyone. You may take your
3 seats.

4 Thank you, members of the jury, for your continued
5 attention.

6 Mr. Shin, you can proceed with direct.

7 MR. SHIN: Thank you, your Honor.

8 BY MR. SHIN:

9 Q. Mr. Hill, you testified earlier that under this arrangement
10 for you to become a board member, you were to receive payments?

11 A. Yes.

12 Q. And they were to be paid on a monthly basis?

13 A. That's correct.

14 Q. Did you, in fact, ever receive such payments?

15 A. Yes. For about five months, from June/July to November.

16 Q. Who paid you?

17 A. Collectables Club.

18 Q. Not HOPE FCU?

19 A. No.

20 Q. Do you know if the other new board members received any
21 such payments?

22 A. Yes.

23 Q. How do you know that?

24 A. I was in charge of arranging those payments to be made by
25 providing the HOPE FCU account numbers of our board members to

H2NKLEB3

Hill - Direct

1 Eva, who would have made those payments to our accounts.

2 Q. This Eva that you're referencing, who is that again?

3 A. She handled our account in Coin.mx and Collectables Club.

4 MR. SHIN: Ms. Grant, if you could please publish for
5 the jury 2144 in evidence.

6 Q. Mr. Hill, if you could describe this email, who it's from
7 and to, and what date it is?

8 A. This email is dated July 30th of 2014, from Yuri Lebedev to
9 myself.

10 Q. Just looking at the overall email, it appears to be an
11 email chain; is that correct?

12 A. Yes.

13 Q. Now, if you could -- if I could direct your attention to
14 that bottom portion of that email, your email at the bottom.
15 Could you read that, please?

16 A. "Hi all. This is to notify you that \$417 will be credited
17 to your HOPE FCU checking account. Please let us know if you
18 have any questions."

19 Q. If you could read the top email, please?

20 THE COURT: Can you just confirm, did this come in
21 today?

22 MR. SHIN: I believe this came in --

23 THE COURT: Take it down for a moment, Ms. Grant.

24 I don't have it on my admitted list.

25 MR. SHIN: I'm sorry, your Honor. That was my

H2NKLEB3

Hill - Direct

1 mistake. I'll lay the appropriate foundation, your Honor.

2 Ms. Grant, if you could please publish this just to
3 the witness, and to the Court, and to counsel.

4 BY MR. SHIN:

5 Q. Do you recognize this document, Mr. Hill?

6 A. Yes.

7 Q. Could you, just in general terms, describe what it is?

8 A. An email from Yuri Lebedev to myself on June 30th, 2014.

9 MR. SHIN: Your Honor, the government offers

10 Exhibit 2144 into evidence.

11 MR. CREIZMAN: No objection.

12 MR. KLINGEMAN: No objection.

13 THE COURT: Thank you.

14 2144 is admitted.

15 (Government's Exhibit 2144 received in evidence)

16 MR. SHIN: If you could publish that for the jury,
17 please, Ms. Grant.

18 Q. If you could read Mr. Lebedev's response at the very top?

19 A. "Rico, I talked to Trevon, and he helped me log in. Also,
20 I don't know if you processed the request for \$417 into my HOPE
21 account yet, but I am attaching an agreement where I am billing
22 for that \$417 via my consulting company. So if it's not too
23 late, I need to submit a bill that way. Thanks, Yuri."

24 MR. SHIN: Ms. Grant, if you could turn to the
25 attachment, please.

H2NKLEB3

Hill - Direct

1 Q. Mr. Hill, could you read just the section under
2 "Agreement"?

3 A. Yes. "This agreement is entered into by and between HOPE
4 Federal Credit Union and Intelligent VR and is issued under the
5 independent contractor agreement."

6 Q. Thank you.

7 MR. SHIN: Ms. Grant, if you could highlight the
8 signature block at the bottom.

9 Q. Who signed on behalf of which entities, Mr. Hill?

10 A. For HOPE Federal Credit Union, it's signed by Jose Freundt,
11 and for Intelligent VR, it's signed by Yuri Lebedev.

12 MR. SHIN: Ms. Grant, if you would put up, just for
13 the witness, Exhibit 2265.

14 Q. Mr. Hill, do you recognize this document?

15 A. Yes. It's an email from Yuri Lebedev to myself.

16 Q. Is it dated August 28th of 2014?

17 A. Yes.

18 MR. SHIN: The government offers Exhibit 2265 into
19 evidence.

20 THE COURT: Without objection?

21 MR. CREIZMAN: No objection.

22 MR. KLINGEMAN: No objection.

23 THE COURT: Thank you.

24 2265 is admitted.

25 (Government's Exhibit 2265 received in evidence)

H2NKLEB3

Hill - Direct

1 MR. SHIN: May we publish, your Honor?

2 THE COURT: You may.

3 BY MR. SHIN:

4 Q. Could you please read the top portion of that email from
5 Mr. Lebedev?

6 A. "Thank you, Rico. For \$417 payment, when you send the bill
7 to Eva, could you use my Intelligent VR company? Last month I
8 contacted her, and she was able to reroute. Thank you again.
9 Regards, Yuri."

10 MR. SHIN: Thank you, Ms. Grant. If you could take
11 that down.

12 Q. Mr. Hill, after the June election that we discussed earlier
13 today --

14 A. Yes.

15 Q. -- was Trevon Gross still a board member of HOPE FCU?

16 A. Yes, he was.

17 Q. In fact, did he have a particular position on the board?

18 A. He was the chairman.

19 Q. Now, do you know whether, after the June election, Gross
20 received payments for his role at HOPE FCU?

21 A. Yes, he did.

22 Q. What were those payments for?

23 A. It was for consulting for \$3,000 a month.

24 Q. Who paid Mr. Gross those consulting payments?

25 A. Collectables Club as well as Kapcharge.

H2NKLEB3

Hill - Direct

1 MR. SHIN: Ms. Grant, if you could please put up, for
2 the witness only, Exhibit 2153.

3 Q. Mr. Hill, do you recognize this document?

4 A. Yes. It's an email from Eva to myself with Anthony Murgio
5 attached.

6 MR. SHIN: The government offers 2153 into evidence.

7 MR. CREIZMAN: No objection.

8 MR. KLINGEMAN: No objection.

9 THE COURT: Thank you.

10 2153 is admitted.

11 (Government's Exhibit 2153 received in evidence)

12 MR. SHIN: May we publish?

13 THE COURT: You may.

14 BY MR. SHIN:

15 Q. Now, directing your attention to the bottom of the email
16 chain, Mr. Hill --

17 A. Yes.

18 Q. -- could you please read what you wrote, the line under,
19 "Hi Eva." Or, actually, starting with "Hi Eva."

20 A. "Hi Eva. We need to send Trevon Gross the following
21 payment: \$1,500 consultancy fee for July and August, \$250
22 rental fee for July and August, total to ACH Trevon Gross,
23 \$3,500. Can we please get this to him by tomorrow?"

24 Q. And further up the chain, is there a reference to certain
25 agreements?

H2NKLEB3

Hill - Direct

1 A. Yes, there is.

2 Q. What agreements are those?

3 A. The consultancy agreement and the rental agreement.

4 MR. SHIN: Ms. Grant, if you could please put up, just
5 for the witness, 1354-A.

6 Q. Do you recognize this document, Mr. Hill?

7 A. Yes. It's an email from myself to Anthony Murgio.

8 Q. What's it regarding?

9 A. It's about the lease agreement.

10 MR. SHIN: The government offers 1354-A into evidence.

11 MR. CREIZMAN: No objection.

12 MR. KLINGEMAN: No objection.

13 THE COURT: Thank you.

14 1354-A is admitted.

15 (Government's Exhibit 1354-A received in evidence)

16 MR. SHIN: May we publish?

17 Could we take a look at the attachment, please.

18 Q. Mr. Hill, what is this agreement?

19 A. This is the rental agreement.

20 Q. Who is it between?

21 A. Between Hope Cathedral.

22 Q. And?

23 A. And HOPE FCU.

24 Q. So Hope Cathedral is the landlord, and HOPE FCU is the
25 tenant?

H2NKLEB3

Hill - Direct

1 A. Yes.

2 MR. SHIN: Ms. Grant, could you please turn to page 5
3 of the attachment, the signature block. Or the notice block, I
4 should say, of page 5.

5 Q. Who are the persons indicated there for receiving notice
6 regarding the lease?

7 A. The landlord, Loretta Larkins, and tenant, Ricardo Hill.

8 MR. SHIN: Ms. Grant, if you could just go back to the
9 first page of the agreement again, please. If you could zoom
10 in under "Term."

11 Q. What is the term there? What are the beginning and end
12 dates?

13 A. Beginning July 1st of 2014 and ending June 30th of 2016.

14 Q. So what's your understanding of whether there was a
15 preexisting lease or new lease that was executed?

16 A. It was a new lease.

17 MR. SHIN: Ms. Grant, if you could publish, just for
18 the witness, 1354-B.

19 Q. Mr. Hill, do you recognize this document?

20 A. Yes. An email from Anthony Murgio to myself.

21 MR. SHIN: The government offers 1354-B into evidence.

22 MR. CREIZMAN: No objection.

23 MR. KLINGEMAN: No objection.

24 THE COURT: Thank you.

25 1354-B is admitted.

H2NKLEB3

Hill - Direct

1 (Government's Exhibit 1354-B received in evidence)

2 MR. SHIN: Could we please publish that to the jury?

3 THE COURT: You may.

4 MR. SHIN: Thank you.

5 BY MR. SHIN:

6 Q. What's the subject line here, Mr. Hill?

7 A. "Rental Agreement."

8 Q. What did you write to Mr. Murgio?

9 A. "Cool. Just elect sign for Collectables Club."

10 Q. Mr. Hill, if I could direct your attention to the bottom
11 email where you write. What did you write initially?

12 A. Oh. "Filled out and sent to Trevon with the info he
13 provided."

14 Q. And then how did Anthony Murgio respond?

15 A. Anthony responded, "Cool. Just elect sign for
16 Collectables."

17 Q. Do you mean what he meant by "elect sign"?

18 A. I don't remember, but I think it's about using our -- using
19 the electronic signature.

20 Q. So you believe "elect" means electronic?

21 A. Yes. We would use RightSignature to sign things
22 electronically.

23 MR. SHIN: Ms. Grant, if you could please show the
24 witness 2158.

25 Q. Mr. Hill, do you recognize this?

H2NKLEB3

Hill - Direct

1 A. This is an email from myself to Trevon.

2 Q. And there is an attachment? Is there an attachment listed
3 in the header?

4 A. Yes.

5 MR. SHIN: The government offers 2158 into evidence.

6 MR. CREIZMAN: No objection.

7 MR. KLINGEMAN: No objection.

8 THE COURT: Thank you.

9 2158 is admitted.

10 (Government's Exhibit 2158 received in evidence)

11 MR. SHIN: May we publish?

12 THE COURT: You may.

13 (Continued on next page)

H2NOLEB4

Hill - Direct

1 BY MR. SHIN:

2 Q. Mr. Hill, could you read what you wrote in the initial
3 email at the bottom?

4 A. I post the right signature link and write "for landlord go
5 to sign".

6 Q. What's the date on which you sent that email?

7 A. On September 29th, 2014.

8 Q. And what did Mr. Gross respond?

9 A. "This is not working. Please just send me clean PDF and I
10 will manually sign it. Thanks."

11 MR. SHIN: Ms. Grant, if we could just flip through
12 the attachment.

13 Q. Is that a PDF of the lease agreement?

14 A. Yes.

15 MR. SHIN: Ms. Grant, you can take that down.
16 Ms. Grant, could you please just show the witness 1332?

17 Q. Mr. Hill, do you recognize this document?

18 A. Yes. This is an email on October 3rd from Anthony Murgio
19 to myself and Trevon.

20 MR. SHIN: Government offers 1322 into evidence.

21 MR. CREIZMAN: No objection.

22 MR. KLINGEMAN: No objection.

23 THE COURT: Thank you. 1322 is admitted.

24 (Government's Exhibit 1322 received in evidence)

25 MR. SHIN: May we publish?

H2NOLEB4

Hill - Direct

1 THE COURT: You may.

2 BY MR. SHIN:

3 Q. Mr. Hill, if you could just read that email please into the
4 record?

5 A. "RICO. We need to get Trevon pay \$1,500 for August and 3K
6 for September. This needs to come out of our funds from HOPE.
7 The 1,500 from August is coming from Kap and 3K for September
8 will be split 1,500 and 1,500 from Collectables and Kapcharge.
9 Please speak with Trevon to figure out the best way to do this,
10 and then I'll notify Kap and we can notify Eva from
11 Collectables."

12 Q. I think you actually did the translation on the way --

13 A. "Kap" is "Kapcharge".

14 MR. SHIN: Ms. Grant, if we could show just the
15 witness 1658?

16 Q. Do you recognize this document, Mr. Hill?

17 A. Yes. This is an email from Trevon to Anthony Murgio and
18 myself.

19 MR. SHIN: The government offers 1658 into evidence.

20 MR. CREIZMAN: No objection.

21 MR. KLINGEMAN: No objection.

22 THE COURT: Thank you. 1658 is admitted.

23 (Government's Exhibit 1658 received in evidence)

24 MR. SHIN: May we publish?

25 THE COURT: You may.

H2NOLEB4

Hill - Direct

1 BY MR. SHIN:

2 Q. Mr. Hill, do you see how the bottom of this chain is the
3 same email we just looked at previously?

4 A. Yes.

5 Q. Could you then read what Anthony Murgio responded?

6 A. "Gentlemen. What is the status on this? I hate this
7 hanging over my head. I want to make sure Trevon gets paid out
8 his consultant fees for all he has done. Thanks."

9 Q. Could you please read Trevon Gross' response on top?

10 A. "Ricardo was handling everything. Now that he has clear
11 instructions, it should all be completed tomorrow."

12 Q. Mr. Hill, who provided you those instructions that he's
13 referencing?

14 A. Trevon.

15 MR. SHIN: Ms. Grant, if you could show the witness
16 2175?

17 Q. Mr. Hill, do you recognize this document?

18 A. Yes. This is the email from Trevon to myself.

19 Q. And it's dated October 7, 2014?

20 A. Correct.

21 MR. SHIN: Government offers 2175 into evidence.

22 MR. CREIZMAN: No objection.

23 MR. KLINGEMAN: No objection.

24 THE COURT: Thank you. 2175 is admitted.

25 (Government's Exhibit 2175 received in evidence)

H2NOLEB4

Hill - Direct

1 MR. SHIN: Could we publish?

2 THE COURT: You may.

3 BY MR. SHIN:

4 Q. Mr. Hill, if you could read the bottom email from Trevon
5 Gross?

6 A. "One payment was moved from Collectables Club to HOPE
7 account. The other two should be moved from Kapcharge to
8 Collectables Club, then to 5170."

9 Q. Then could you read your response, please?

10 A. "To be clear, I only need to move 3K from Kap to
11 Collectables Club, then from Collectables Club to 5170?"

12 Q. And what was Trevon Gross' response?

13 A. "Yes. Thanks."

14 Q. Could you explain for the jury what's happening here? What
15 is Trevon Gross saying? What's your understanding of what
16 Trevon Gross was saying at the bottom of the initial email?

17 MR. KLINGEMAN: Objection, speculation.

18 THE COURT: You can rephrase.

19 BY MR. SHIN:

20 Q. Mr. Hill, did you understand Trevon Gross' instructions in
21 the bottom email?

22 A. Yes.

23 Q. And in particular, after he answered your clarifying
24 question, did you understand the instructions that were posed?

25 A. Yes.

H2NOLEB4

Hill - Direct

1 Q. So what was Mr. Gross telling you to do in this email?

2 A. He was telling me what payment to move from Collectables
3 Club to the HOPE account, and what payments to move from
4 Kapcharge to Collectables Club, then to the HOPE account.

5 Q. What is 5170?

6 A. 5170 is his HOPE account.

7 Q. Trevon Gross' HOPE account?

8 A. Yes.

9 MR. SHIN: Ms. Grant, if you could please show the
10 witness 2177?

11 Q. Do you recognize this document?

12 A. Yes. This is an email from -- well, it's a chain email,
13 one from Trevon to myself, the other from Trevon to an employee
14 at Kapcharge, Christine.

15 MR. SHIN: Government offers 2177 into evidence.

16 MR. CREIZMAN: No objection.

17 MR. KLINGEMAN: No objection.

18 THE COURT: Thank you. 2177 is admitted.

19 (Government's Exhibit 2177 received in evidence)

20 MR. SHIN: May we publish?

21 THE COURT: You may.

22 BY MR. SHIN:

23 Q. Mr. Hill, the email, the second email in the chain from
24 Trevon Gross to Christine Corida, October 8, 2014 --

25 A. Yes.

H2NOLEB4

Hill - Direct

1 Q. I'm sorry. Actually, let's go to the one just below from
2 Christine Corida. Could you please read what she wrote there?

3 A. "Hi. Please advise when the entries below will be posted.
4 I will be sending today's entries later on this morning. Also,
5 please advise in regards to the \$3,000. Thank you."

6 Q. What was Trevon Gross' response?

7 A. "Ricardo, these were not done yesterday? Also, you should
8 create an invoice from Collectables Club to Kapcharge for
9 consultant services to justify the \$3,000. Make it from
10 Anthony since he stated it. Please advise."

11 Q. So just to be clear, this email was sent from Trevon Gross
12 to whom? The one you just read, who was the recipient of that
13 email?

14 A. Christine.

15 Q. But he actually addressed the email to whom?

16 A. Myself.

17 Q. And then is the top email him forwarding that statement to
18 you, forwarding the email chain to you?

19 A. That's correct.

20 MR. SHIN: Ms. Grant, if you could please show the
21 witness 2183?

22 Q. Do you recognize this document?

23 A. Yes. This is an email from myself to Christine at
24 Kapcharge. It has an attachment.

25 MR. SHIN: Government offers 2183 into evidence.

H2NOLEB4

Hill - Direct

1 MR. CREIZMAN: No objection.

2 MR. KLINGEMAN: No objection.

3 THE COURT: Thank you. 2183 is admitted.

4 (Government's Exhibit 2183 received in evidence)

5 BY MR. SHIN:

6 Q. Could you just read the text of the email, the top of the
7 email that you write to Christine at Capital Inc.?

8 A. I can't see --

9 Q. Do you see --

10 A. I'm sorry.

11 Q. Please. If you could read that text?

12 A. "Just a notice that all postings are complete."

13 Q. I'm sorry. The top email?

14 A. "Invoice attached."

15 MR. SHIN: Ms. Grant, if we could look at the
16 attachment, please?

17 Q. What is this document, Mr. Hill?

18 A. This is an invoice to Kapcharge for consulting fees.

19 Q. Consulting fees for whom?

20 A. For Trevon in the amount of \$3,000.

21 Q. It's for what time period?

22 A. For October of 2014.

23 Q. Who created this invoice?

24 A. I did.

25 Q. And on whose instructions?

H2NOLEB4

Hill - Direct

1 A. Trevon's.

2 Q. Did anyone else also instruct you on making this invoice?

3 A. Anthony Murgio.

4 MR. SHIN: Ms. Grant, 1324-C, please.

5 Q. Mr. Hill, do you recognize this document?

6 A. Yes. This is an email from Anthony Murgio to myself with
7 others attached from Kapcharge.

8 MR. SHIN: Government offers 1324-C into evidence.

9 MR. CREIZMAN: No objection.

10 MR. KLINGEMAN: No objection.

11 THE COURT: Thank you. 1324-C is admitted.

12 (Government's Exhibit 1324-C received in evidence)

13 BY MR. SHIN:

14 Q. Could you read the second email down from Christine Corida?
15 What did she write beginning with "I understand"?

16 A. I'm sorry. I can't see it yet. "I understand, but which
17 months are being billed? This is very important."

18 Q. And what did Anthony Murgio respond?

19 A. "August and September."

20 Q. Do you understand what this conversation is in reference
21 to?

22 A. Yes. Christine mentioned that their portion of the
23 consulting fees should have only been 1,500 a month. Anthony
24 is telling her to recharge 3,000 for this one because it was
25 done for two months, August and September.

H2NOLEB4

Hill - Direct

1 MR. SHIN: Ms. Grant, 2180 for the witness, please.

2 Q. Do you recognize this document, Mr. Hill?

3 A. Yes. This is an email from me to Anthony Murgio with
4 Kapcharge attached. It has a couple of attachments.

5 MR. SHIN: Government offers 2180 into evidence,
6 please.

7 MR. CREIZMAN: No objection.

8 MR. KLINGEMAN: No objection.

9 THE COURT: Thank you. 2180 is admitted.

10 (Government's Exhibit 2180 received in evidence)

11 MR. SHIN: May we publish to the jury?

12 THE COURT: You may.

13 MR. SHIN: Ms. Grant, could we look at the first
14 attachment?

15 BY MR. SHIN:

16 Q. What is this document?

17 A. This is an invoice to Kapcharge for consultant fees for
18 Trevon.

19 Q. For what period?

20 A. For the month of September, 2014.

21 Q. In what amount?

22 A. For \$1,500.

23 MR. SHIN: Ms. Grant, if we could look at the next
24 attachment, please?

25 Q. What is this, Mr. Hill?

H2NOLEB4

Hill - Direct

1 A. Also an invoice to Kapcharge for consulting fees for
2 Trevon. It's for August of 2014 for \$1,500.

3 Q. Who made these invoices?

4 A. I made them.

5 Q. And on whose instructions?

6 A. Trevon and Anthony Murgio.

7 MR. SHIN: Ms. Grant, 2189 for the witness, please?

8 Q. Mr. Hill, do you recognize this document?

9 A. Yes. This is an email from Trevon to myself.

10 MR. SHIN: Government offers 2189 into evidence.

11 MR. CREIZMAN: No objection.

12 MR. KLINGEMAN: No objection.

13 THE COURT: Thank you. 2189 is admitted.

14 (Government's Exhibit 2189 received in evidence)

15 BY MR. SHIN:

16 Q. What's the date of this email?

17 A. October 15, 2014.

18 Q. Could you please read what Trevon Gross wrote in the
19 initial email at the bottom?

20 A. "Hey, Ricardo. Did you ever get that invoice over to
21 Kapcharge for the 3K?"

22 Q. How did you reply?

23 A. "Yes, I sure did."

24 MR. SHIN: Ms. Grant, if you could please show the
25 witness 2280?

H2NOLEB4

Hill - Direct

1 Q. Do you recognize this document?

2 A. Yes. This is an email from Anthony Murgio to myself and
3 Trevon.

4 Q. On November 9th of 2014?

5 A. Yes.

6 MR. SHIN: Government offers 2280 into evidence.

7 MR. CREIZMAN: No objection.

8 MR. KLINGEMAN: No objection.

9 THE COURT: Thank you. 2280 is admitted.

10 (Government's Exhibit 2280 received in evidence)

11 MR. SHIN: May we publish?

12 THE COURT: You may.

13 BY MR. SHIN:

14 Q. Mr. Hill, what's the subject line of this email?

15 A. "Trevon pay".

16 Q. And could you please read what Anthony Murgio writes to you
17 and Mr. Gross?

18 A. "Rico. Trevon is to be paid 3K a month from Collectables.
19 Collectables needs to charge Kap 1,500 a month to compensate
20 for half. Please invoice Kap for consultant from Collectables
21 Club then pay Trevon."

22 Q. Thank you.

23 MR. SHIN: Ms. Grant, if you could please put up 2227
24 for the witness?

25 Q. Do you recognize this document?

H2NOLEB4

Hill - Direct

1 A. Yes. This is an email from myself to Kevin from Kapcharge.
2 It has an attachment on November 10th, 2014.

3 MR. SHIN: Government offers 2227 into evidence.

4 MR. CREIZMAN: No objection.

5 MR. KLINGEMAN: No objection.

6 THE COURT: Thank you. 2227 is admitted.

7 (Government's Exhibit 2227 received in evidence)

8 MR. SHIN: May we publish?

9 THE COURT: You may.

10 BY MR. SHIN:

11 Q. Who is Kevin -- who is the recipient of this email, Kevin?

12 A. Kevin from Kapcharge. He's an employee at Kapcharge.

13 Q. And could you please read what you wrote to Kevin?

14 A. "Invoice attached for consulting for Trevon."

15 Q. Just for the record, Kevin's last name is?

16 A. Pepe.

17 MR. SHIN: Could we look at the attachment, please,
18 Ms. Grant?

19 Q. What is this document, Mr. Hill?

20 A. This is an invoice to Kapcharge for consulting for Trevon
21 for the month of November in the amount of \$1,500.

22 Q. Did you make this document?

23 A. Yes.

24 MR. SHIN: Ms. Grant, could you please show the
25 witness 1326-C?

H2NOLEB4

Hill - Direct

1 Q. Do you recognize this document?

2 A. Yes. This is an email chain between myself, Anthony
3 Murgio, and Eva.

4 Q. Is there an attachment?

5 A. Yes, there is.

6 Q. The email chain is dated November 14, 2014?

7 A. Yes.

8 MR. SHIN: Government offers 1326-C into evidence.

9 MR. CREIZMAN: No objection.

10 MR. KLINGEMAN: No objection.

11 THE COURT: Thank you. 1326-C is admitted.

12 (Government's Exhibit 1326-C received in evidence)

13 MR. SHIN: May we publish?

14 THE COURT: You may.

15 BY MR. SHIN:

16 Q. Mr. Hill, near the bottom of the first page, Eva writes an
17 email. What is she asking for in that email?

18 A. "Hello. Do you now have the agreement with Trevon?"

19 Q. What does Anthony Murgio respond?

20 A. "What agreement do you need? Showing that he is
21 consulting?"

22 MR. SHIN: Ms. Grant, if you could highlight just kind
23 of the top half of the email from here on?

24 Q. What does Eva respond?

25 A. "Is it possible to provide me with it?"

H2NOLEB4

Hill - Direct

1 Q. And what does Anthony Murgio respond?

2 A. "Sure. We can make one. Rico, please create and have
3 Trevon sign."

4 Q. What's your response to that?

5 A. "Sure. I need Collectables Club letterhead."

6 Q. What does Anthony Murgio respond?

7 A. "Yo, just go on collectpma.com."

8 Q. And is your response there at the very top "see attached"?

9 A. Yes.

10 MR. SHIN: Ms. Grant, could we look at the attachment?

11 Q. What is this document, Mr. Hill?

12 A. This is the consulting agreement between Collectables Club
13 and Trevon.

14 Q. What's the date on this document?

15 A. August 1st, 2014.

16 Q. Do you recall when the date of this email chain was that we
17 were looking at at the beginning of this document?

18 A. In November.

19 Q. Was it November 14 of 2014?

20 A. Yes.

21 Q. But was this actually created on August 1st, 2014?

22 A. No.

23 Q. Was there a written consulting agreement prior to your
24 making this agreement around this time of November, 2014?

25 A. Was there already one?

H2NOLEB4

Hill - Direct

1 Q. Correct.

2 A. No.

3 Q. Did Trevon Gross actually sign that document?

4 A. I don't remember, but he could have asked me to do so. I
5 don't know if he signed it or I signed it for him.

6 Q. Were there occasions where you signed for Trevon Gross?

7 A. Yes.

8 Q. And when you did so, would you do so at his direction?

9 A. Yes.

10 Q. Did you do that here?

11 A. Yes, I believe so.

12 MR. SHIN: Ms. Grant, if we could show the witness
13 1326-B?

14 Q. Do you recognize this document, Mr. Hill?

15 A. Yes. This is an email chain from Eva to myself and Anthony
16 Murgio.

17 MR. SHIN: Government offers 1326-B into evidence.

18 MR. CREIZMAN: No objection.

19 MR. KLINGEMAN: No objection.

20 THE COURT: Thank you. 1326-B is admitted.

21 (Government's Exhibit 1326-B received in evidence)

22 MR. SHIN: May we publish?

23 THE COURT: You may.

24 MR. SHIN: Ms. Grant, if you could focus on the top
25 half.

H2NOLEB4

Hill - Direct

1 BY MR. SHIN:

2 Q. If you could just explain what this email from Eva -- what
3 is she telling you and Anthony Murgio?

4 A. She wants me -- she's trying to add Trevon's bank account
5 to Collectables Club's payee on their HOPE account. She could
6 not do it by herself and was asking was I able to find out how
7 to do this. She also was asking to add the following
8 Collectables Club account to our HOPE account in order to
9 transfer funds to the HOPE account for Collectables Club.

10 Q. Okay. Let's break that down a little bit. So what is the
11 6437 HOPE account?

12 A. 6437 is Collectables Club's account at HOPE FCU.

13 Q. And when she said, "Please add Trevon's bank account to the
14 6437 HOPE account," what is she asking you to do?

15 A. She wants me to add Trevon's bank account as a payee to
16 6437 so she can move funds from our -- from Collectables Club
17 HOPE account 6437 to Trevon's bank account, what she's asking
18 me to add.

19 Q. So then in this next paragraph, when she asks to you add
20 the following Collectables Club account in order to transfer
21 funds into 6437 HOPE, what is she asking you to do there?

22 A. She's asking me to add one of Collectables Club's outside
23 bank accounts, that routing and account number, and this will
24 allow her to transfer funds from an outside bank account into
25 the Collectables Club account at HOPE FCU.

H2NOLEB4

Hill - Direct

1 Q. Just for the record, what is the subject line of this
2 email?

3 A. "Funds for Trevon".

4 MR. SHIN: Ms. Grant, 1330-A just for the witness,
5 please?

6 Q. Do you recognize this document, Mr. Hill?

7 A. Yes. This is an email from myself to Eva and Anthony on
8 November 24th, 2014.

9 MR. SHIN: Government offers 1330-A into evidence.

10 MR. KLINGEMAN: No objection.

11 MR. CREIZMAN: No objection.

12 THE COURT: Thank you. 1330-A is admitted.

13 (Government's Exhibit 1330-A received in evidence)

14 MR. SHIN: May we publish?

15 THE COURT: You may.

16 BY MR. SHIN:

17 Q. Could you please read what you wrote under "Hi all"?

18 A. "Eva, we need to pay Trevon 6K. The wire instructions are
19 below. Future credit to Collectables Club at HOPE. When
20 received I'll transfer funds to Trevon's account."

21 Q. We don't need to read all the account information
22 underneath.

23 Could you just explain, is this a multistep process,
24 again describing that first paragraph?

25 A. Yes. I need Eva to credit funds to Collectables Club at

H2NOLEB4

Hill - Direct

1 HOPE. When those funds are received, I can then transfer them
2 from Collectables' account at HOPE FCU to Trevon's account at
3 HOPE FCU.

4 Q. What's the subject of this email?

5 A. "Trevon pay".

6 Q. Mr. Hill, we've looked at now numerous emails and invoices
7 and other documents relating to the payment of consulting fees
8 to Mr. Gross; is that correct?

9 A. Yes.

10 Q. Did you attend any board meetings of HOPE FCU after you
11 were elected to the board?

12 A. Yes.

13 Q. Was there discussion during these board meetings of paying
14 Trevon Gross, the chairman of the board, consulting fees?

15 A. No.

16 MR. SHIN: You can take that down. Thank you.

17 Q. Mr. Hill, after you became a board member of HOPE Federal
18 Credit Union in June of 2014, did you have any involvement in
19 running the credit union?

20 A. Yes, I did.

21 Q. Just in general terms, what involvement did you have?

22 A. I also managed the back end of the credit union via CU
23 Base, I helped with all account creation for new members to
24 open accounts at HOPE FCU, I also processed ACH transactions
25 for Kapcharge, who also had an account at HOPE FCU.

H2NOLEB4

Hill - Direct

1 Q. What was the software program that you used to manage the
2 back end?

3 A. It's called CU Base.

4 Q. In fact, did you start preparing to have this role in
5 running the credit union before you were actually elected to
6 the board?

7 A. Yes. I began training to learn the backend software.

8 MR. SHIN: Ms. Grant, could we show the witness 2143,
9 please?

10 Q. Do you recognize this document?

11 A. Yes. There's an email chain from Trevon to myself, Jose,
12 Tim, Yuri, with Anthony Murgio copied on June 17th, 2014.

13 MR. SHIN: Government offers 2143 into evidence.

14 MR. CREIZMAN: No objection.

15 MR. KLINGEMAN: No objection.

16 THE COURT: Thank you. 2143 is admitted.

17 (Government's Exhibit 2143 received in evidence)

18 MR. SHIN: May we publish?

19 THE COURT: You may.

20 BY MR. SHIN:

21 Q. Mr. Hill, looking at Trevon Gross' email at the bottom,
22 could you just right under the names, what it is that he wrote?

23 A. "Here is your login for our back office software. In
24 addition, you should have received an invitation from
25 logmein.com to have access to our remote machine in the CU.

H2NOLEB4

Hill - Direct

1 The user name, once you are on the machine, is GDS. The
2 password is the standard one we always use."

3 Q. What is the date that that email was sent to you?

4 A. June 17th of 2014.

5 Q. Was that before or after you were elected a board member?

6 A. Before.

7 Q. Before? Okay.

8 MR. SHIN: Ms. Grant, if you could highlight just the
9 user names below?

10 Q. I'm not going to ask you to read those. Are those the
11 credentials that you used to log into the backend software?

12 A. Yes.

13 Q. Just to be clear, who were the other individuals who were
14 given access here?

15 A. Tim, Eric, Yuri Lebedev, and Jose Freundt.

16 Q. And do you see how Anthony Murgio is copied on this email?

17 A. Yes.

18 Q. Was he given access?

19 A. No.

20 Q. So after you were given access to the system -- which I
21 believe you called CU Base?

22 A. Yes.

23 Q. -- did Trevon Gross still have access to the backend
24 system?

25 A. Yes.

H2NOLEB4

Hill - Direct

1 Q. Now, did you have an understanding whether there was any
2 difference between what access you had and what access Trevon
3 Gross had?

4 A. Yes. Trevon's login was superior to all of ours.

5 Q. And so what does that mean, that it's superior?

6 A. That he has master access. Basically, he controls who
7 logged in, who was given passwords, or who can't log in.

8 Q. So would that give his access any ability with respect to
9 your and these other people's access?

10 A. Yes. If at any time he wanted to revoke our access, he
11 could be the only one to do so.

12 THE COURT: I invite the jury to take a standing break
13 with me.

14 (Pause)

15 MR. SHIN: Ms. Grant, if you could please put up 1173,
16 which is already in evidence?

17 BY MR. SHIN:

18 Q. Mr. Hill, let's take a look at the bottom email. Could you
19 please read that paragraph that Anthony Murgio wrote?

20 A. "Trevon. Rico will be facilitating the transition and the
21 training for the credit union. Rico is very organized so I
22 would like you to both get together on the steps that need to
23 be taken over the next month or so for a smooth transition."

24 MR. SHIN: Could we look at the next email up,
25 Ms. Grant?

H2NOLEB4

Hill - Direct

1 Q. How did Trevon Gross respond?

2 A. "Okay. Rico, looking forward to working with you. You
3 should have everything to log in and see the system. Let me
4 know your availability for later today, Wednesday, or Thursday.
5 Thanks."

6 Q. Let's take a look at the next email up. If you could read
7 that, please?

8 A. "Hi. I have made it through the first five training
9 modules. I'll be free after 6:00 p.m. Eastern or early
10 tomorrow before 10:00 a.m. I'm currently on the ACH process
11 training."

12 MR. SHIN: You can zoom out, Ms. Grant.

13 Q. What is this reference to training here?

14 A. How to enter transactions via -- how to enter ACH
15 transactions to certain accounts.

16 Q. Let me start more broadly. There's a reference here to
17 "first five training modules". Could you describe what
18 training you participated in around this time?

19 A. Oh. It was overall training of the CU Base, the backend
20 software for HOPE Federal Credit Union, from account creation,
21 to approving the deposit or withdrawals, to changing passwords
22 for customers of the credit union, to ensuring debit cards were
23 mailed to the correct address; just an overall training of the
24 whole CU Base.

25 Q. Did you also, around this time, receive any training on

H2NOLEB4

Hill - Direct

1 compliance-related issues?

2 A. Yes.

3 Q. Could you describe what those were?

4 A. It was an online training, basically like a Q and A, for
5 bank regulations. You read through the material, and at the
6 end there were questions, and you had to pass with a certain
7 score to complete the training.

8 Q. Do you remember what topics were covered in those
9 compliance trainings?

10 A. Yes, I remember most. OFAC, BSA, SAR. I don't remember
11 them all.

12 Q. You just actually gave several acronyms. Do you remember
13 what any of those stand for?

14 A. Yeah, a few. BSA is Bank Secrecy Act. SAR is Suspicious
15 Activity Report. I don't remember what OFAC is. I can't
16 remember all of them.

17 Q. You made a reference to these being online trainings?

18 A. Yes. It was on online training module where it read
19 through each of the acronyms I mentioned, and then they asked
20 questions afterwards to make sure that you read the material.

21 Q. Do you remember what format, what form these questions were
22 in?

23 A. The questions were in multiple choice.

24 Q. Were there many of them? Do you recall the number of
25 questions?

H2NOLEB4

Hill - Direct

1 A. It wasn't a lot. It took 20, 25 minutes to complete the
2 whole thing.

3 Q. 20, 25 minutes for each training or all of them?

4 A. For all of them.

5 Q. So on all of those compliance topics it took 25 minutes to
6 train?

7 A. Yes.

8 Q. Would you describe those trainings as detailed?

9 A. Yes. It lists the acronyms and told what it stood for and
10 what needs to be done in certain situations.

11 Q. Did you feel like you had a full understanding of all those
12 compliance issues after taking the 25 minutes worth of
13 training?

14 A. No.

15 MR. SHIN: I'm sorry. Could we put that back up,
16 please, Ms. Grant? Thank you.

17 Q. There is a reference here in your email, Mr. Hill, after
18 you say you've made it through the training modules.

19 A. Yes.

20 Q. And you say you'll be free after 6:00 p.m. or early
21 tomorrow before 10:00?

22 A. Yes.

23 Q. Did you have a subsequent discussion with Mr. Gross about
24 these trainings?

25 A. Yes. He asked if we went through it and completed it, and

H2NOLEB4

Hill - Direct

1 if we passed, you had to have a certain passing score, I mean
2 answering the questions correctly, for actually to complete it.

3 Q. Was there followup discussion about the substance of the
4 trainings?

5 A. No.

6 Q. For example, did you ask followup questions of him about
7 OFAC or BSA or SARs?

8 A. No. I just made sure I passed it and that was it.

9 Q. Did he ask you any additional followup questions to make
10 sure you understood those topics?

11 A. No.

12 Q. There's a reference here to "I'm currently on the ACH
13 processing training." What was that training. Could you
14 describe what that training was like?

15 A. It was how to manually enter transactions via ACH to a
16 specific account.

17 Q. Was the format similar to the format you described earlier
18 for the other trainings?

19 A. Yes.

20 Q. So after that training, do you feel like you had a thorough
21 understanding of what ACH was?

22 A. No, not at all.

23 MR. SHIN: Ms. Grant, if you could please put up 1174
24 in evidence?

25 Q. You see this is an email from Trevon Gross. Who are the

H2NOLEB4

Hill - Direct

1 individuals who are receiving this email?

2 A. Myself, Anthony Murgio, Yuri Lebedev, and Jose.

3 MR. SHIN: If you could zoom out, please, Ms. Grant?

4 Q. Just generally, what's being provided here?

5 A. Information about the credit union; the founding date, the
6 branch location, the phone number.

7 MR. SHIN: If we could actually zoom in on the bottom
8 half, please?

9 Q. Do you see there under "wires to HOPE FCU" there's a word
10 Alloya?

11 A. Yes.

12 Q. What is Alloya?

13 A. Alloya is a corporate credit union.

14 Q. What relationship was there between Alloya and HOPE FCU?

15 A. Alloya was HOPE's corporate credit union.

16 Q. What did Alloya do for HOPE FCU?

17 A. I don't know. I never understood that relationship.

18 Q. Do you recall any terms being used to describe what Alloya
19 was other than "corporate credit union"?

20 A. Yes. Alloya was a settlement bank for HOPE or an
21 originations bank for HOPE.

22 Q. Do you understand what those terms mean?

23 A. No, I don't.

24 Q. So sitting here today, do you have an understanding of what
25 exactly Alloya did for HOPE FCU?

H2NOLEB4

Hill - Direct

1 A. No, I really don't.

2 Q. Did Trevon Gross ever explain that to you?

3 A. He may have made an attempt to explain it, but I never
4 understood.

5 Q. You were the one who was responsible for running the
6 day-to-day operations, or you had a role in running the
7 day-to-day operations of HOPE FCU?

8 A. Yes.

9 THE COURT: Just a moment.

10 MR. CREIZMAN: Objection, form.

11 THE COURT: All right. I'll sustain. Little bit of
12 room, but --

13 MR. SHIN: Thank you, your Honor.

14 THE COURT: Thank you.

15 BY MR. SHIN:

16 Q. Mr. Hill, do you recall testifying earlier that you managed
17 the back end --

18 A. Yes.

19 Q. -- of HOPE FCU?

20 A. Yes.

21 Q. Was that a day-to-day job or a once-in-a-while job?

22 A. Every day. Well, Monday through Friday.

23 Q. Now, while you were doing that, did you work with anyone
24 else associated with HOPE FCU?

25 A. Yes, Trevon.

H2NOLEB4

Hill - Direct

1 Q. How often did you deal with him in connection with that
2 work?

3 A. On a daily basis, or Monday through Friday.

4 Q. What kinds of interactions did you have with Gross on a
5 day-to-day basis for work?

6 A. He would give me instructions and directions on how to do
7 certain tasks, and he would also doublecheck on any work that
8 I've done or any tasks I completed.

9 Q. Did he ever give you assignments of things to do?

10 A. Yes.

11 Q. I believe you testified that he checked on your work?

12 A. Yes.

13 Q. Did he ever correct mistakes that you had made?

14 A. Or showed me how to do so.

15 Q. So would you say that you worked closely with him --

16 A. Yes.

17 Q. -- on a day-to-day basis?

18 A. Correct.

19 Q. Now, while working with Gross, did you ever talk about
20 Coin.mx?

21 A. I'm sure that I told him what I did for Collectables Club.

22 Q. I'm sorry. Would you mind repeating that answer?

23 A. I'm sure I told Trevon what I did for Collectables Club and
24 Coin.mx.

25 Q. I'm using Coin.mx differently from Collectables Club in my

H2NOLEB4

Hill - Direct

1 question. Did you ever mention Coin.mx?

2 A. Yes. That's the platform that I worked on before working
3 on HOPE's back end.

4 Q. Could you just describe how this came up?

5 A. Trevon noticed that I was catching on to the back end
6 pretty quickly from CU Base, the CU Base training, and just me
7 picking it up in general, and he had asked if I worked on any
8 backend software before, and I would mention that, yes, I run
9 the back end on Coin.mx, and the back end of Coin.mx is a lot
10 harder than the CU Base back end was.

11 Q. How did Trevon Gross react when you said that you were
12 doing work for Coin.mx?

13 A. He didn't. He didn't seem like he was surprised or he
14 didn't ask any questions about it.

15 Q. Did you try to hide the fact that you were associated with
16 Coin.mx from Trevon Gross?

17 A. No, not at all.

18 Q. Now, where was the credit union's operations when you
19 joined the board and started working for HOPE FCU?

20 A. It was located in Jackson, New Jersey.

21 Q. Did there come a time when another location was opened?

22 A. Yes, in Tallahassee, Florida.

23 Q. And when was that?

24 A. In July of 2014.

25 Q. Now, you testified earlier today that Coin.mx opened a

H2NOLEB4

Hill - Direct

1 location in Tallahassee in July of 2014. Was there any
2 relationship between those two things?

3 A. It was the same office.

4 Q. Why did HOPE FCU open an office in Tallahassee, Florida?

5 A. That's where I was located, and that's where the branch was
6 going to be located as I was doing the day-to-day operations
7 there.

8 Q. When you say "that's where the branch was going to be
9 located", what was actually going to be located at the office
10 in Tallahassee?

11 A. A workstation -- a complete workstation with a desktop, a
12 tower, a secure router and a GUAPPLE.

13 Q. I'm sorry. What was a GUAPPLE?

14 A. A GUAPPLE is similar to a router. It securely allows a
15 desktop to connect to CU South via CU Base.

16 Q. So it would connect your computer?

17 A. To the back end of the credit union.

18 Q. Who was going to work for the credit union at that location
19 in Tallahassee?

20 A. I was.

21 Q. Anyone else?

22 A. No.

23 MR. SHIN: Ms. Grant, if you could put up 51, please,
24 already in evidence?

25 Q. What is this that we're looking at here?

H2NOLEB4

Hill - Direct

1 A. This is the outside of the office in Tallahassee, Florida.

2 Q. Who is that individual on the lower left-hand corner?

3 A. Jose Freundt.

4 MR. SHIN: If we could go to 52, please?

5 Q. What are we looking at here, Mr. Hill?

6 A. The signage in front of the building, particularly that
7 sign HOPE FCU and Collectables Club.

8 Q. We note here it says "Collectables Club". Was there any
9 memorabilia sold out of this location?

10 A. No.

11 Q. Or stored at this location?

12 A. No.

13 Q. Were there meetings of collectibles enthusiasts at this
14 location?

15 A. No.

16 MR. SHIN: If we could go to 53, please?

17 Q. What's in this photo here, Mr. Hill?

18 A. The signage in front of the entrance to our office.

19 MR. SHIN: Could we take a look at that?

20 Q. So the sign here says it's the offices of HOPE FCU and
21 Coin.mx; is that correct?

22 A. Yes.

23 MR. SHIN: Could we look at 54, please? Thank you.

24 Q. What are we looking at here?

25 A. The inside of the office in Tallahassee, Florida.

H2NOLEB4

Hill - Direct

1 Q. This was for both HOPE FCU and Coin.mx, correct?

2 A. Yes.

3 MR. SHIN: If we could move on to the next photo,
4 please?

5 Q. So the sign here says "HOPE FCU management office". What
6 was the management office?

7 A. That's where the workstation was located, the desktop --
8 the desktop, monitor, and the tower.

9 Q. And that's where you worked?

10 A. Yes.

11 MR. SHIN: Could we look at the next photo, please?

12 Q. What office is this?

13 A. That's inside the management office of HOPE FCU at
14 Tallahassee, Florida.

15 MR. SHIN: Next photo, please.

16 Q. What is this, Mr. Hill?

17 A. The next door over is Coin.mx member support.

18 Q. What was done out of that office?

19 A. Jen worked inside that office and on the back end of
20 Coin.mx. She also managed the back end of Coin.mx with me.

21 MR. SHIN: Could we take a look at 61, actually,
22 Ms. Grant? Thank you.

23 Q. What's this?

24 A. That's inside the router room where the GUAPPLE, the secure
25 servers, our internet system, our internet router, and the

H2NOLEB4

Hill - Direct

1 printers were set up. It's across the hall from the two
2 offices.

3 Q. You called this a router room?

4 A. Yes. It's -- the secure server and router has to be behind
5 a lock and key, and this is that room.

6 Q. How big was this room?

7 A. I'm not good with feet or whatever, but it's very small,
8 just enough to hold the items we see there.

9 Q. I guess another way to put it, is there much more to this
10 room than what we're looking at in this photo?

11 A. Oh, no.

12 MR. SHIN: Could we take a look at 62?

13 Q. What's that?

14 A. That's the HOPE router -- I'm sorry -- yeah, the HOPE
15 router connected to the workstation, the desktop workstation in
16 the other office.

17 MR. SHIN: Could we look at Exhibit 63, please?

18 Q. What is that?

19 A. The GUAPPLE.

20 Q. This is the GUAPPLE that you described earlier?

21 A. Yes.

22 MR. SHIN: If we could look at 58, please?

23 Q. We looked at two different rooms that were used for HOPE
24 FCU business?

25 A. Uh-huh.

H2NOLEB4

Hill - Direct

1 Q. Could you just describe where they are in this photo?

2 A. The two different rooms? The door down the hall on the
3 left is where the GUAPPLE and secure router is located, and
4 directly across the hall is the two offices we saw; one being
5 the HOPE management office and the other the Coin.mx customer
6 support office.

7 Q. Is there something on the floor there between those two
8 offices, those two rooms?

9 A. Yes, there's a cable connecting the GUAPPLE to the
10 workstation.

11 Q. So that was the HOPE FCU branch in Tallahassee, Florida?

12 A. Yes.

13 Q. Was there anything more to the branch than what we've
14 looked at?

15 A. No.

16 THE COURT: Mr. Shin, what's your time estimate for
17 the witness?

18 MR. SHIN: Your Honor, there's significantly more to
19 do. I think there was at least a couple more hours of
20 testimony.

21 THE COURT: All right. We'll break for lunch.

22 It's 12:45, ladies and gentlemen of the jury, so we'll
23 return at 1:45. Enjoy your lunch. Thank you.

24 (Continued on next page)

H2NOLEB4

Hill - Direct

1 (Jury not present)

2 THE COURT: You may step down, Mr. Hill.

3 Matters to take up, counsel?

4 MR. SHIN: Nothing from the government, your Honor.

5 THE COURT: So several hours, maybe?

6 MR. SHIN: Yes, your Honor.

7 THE COURT: We'll see if during lunch you can shorten.

8 MR. SHIN: Believe it or not, I actually cut some
9 stuff on the fly during my presentation this morning, but I
10 have further evidence --

11 THE COURT: Let's really use lunch for more of that.
12 I mean, just for example, you're going back over at some length
13 photos that we've been walked through already by
14 Ms. Wotherspoon. And I can see why some of it, but some of it
15 feels duplicative. Let's move it along.

16 Matters to take up? Anything?

17 MR. SHIN: We'll work on it, your Honor.

18 THE COURT: Okay. Nothing?

19 MR. SHIN: Nothing else, your Honor.

20 MS. SANTILLO: One matter I'll confer with the
21 government about, but it may be an issue.

22 THE COURT: Okay. We'll meet back in 40 minutes.
23 Thank you.

24 (Luncheon recess)

25

H2NKLEB5

1 AFTERNOON SESSION

2 1:38 PM

3 (In open court; jury not present)

4 THE COURT: Thank you for being here on time. I'll
5 wait for the government.

6 MR. KLINGEMAN: Your Honor, I'm going through the
7 exhibits that the government has told me they're planning to
8 use this afternoon.

9 THE COURT: Thank you.

10 MR. CREIZMAN: Off the record.

11 (Discussion off the record)

12 MR. NOBLE: Apologies, your Honor.

13 THE COURT: All right. Matters to take up?

14 MR. NOBLE: Not from the government.

15 MS. SANTILLO: Yes, I do have one issue.

16 THE COURT: We can't hear you.

17 (Pause)

18 MS. SANTILLO: Your Honor, there are going to be some
19 rather long calls today, and I just wanted to confer with the
20 government to make sure we had no completeness issues with
21 respect to that. So I'm just reviewing a transcript that you
22 just saw.

23 THE COURT: Great.

24 MR. SHIN: So during --

25 THE COURT: Microphone.

H2NKLEB5

1 MR. SHIN: Thank you for the reminder, your Honor.

2 THE COURT: I'm a bad lip reader, so I have to remind
3 you.

4 MR. SHIN: Appreciate that.

5 So during Mr. Hill's testimony, in addition to some
6 more emails and the like, I'm planning to play during his
7 testimony recordings of certain calls that he participated in.
8 They include a call with Mr. Gross, and Mr. Murgio, and
9 representatives of Kapcharge. That is the one that
10 Ms. Santillo is currently looking at because I'm planning to
11 chop off part of the beginning of the call.

12 We are also planning to play a call with Mr. Hill,
13 Mr. Murgio, and Mr. Gross, a discussion of Alloya and their
14 services being cut off. That's a relatively short call, it's
15 about seven minutes long, so we're planning to play that in the
16 entirety.

17 The call that Ms. Santillo is reviewing, it's 30-plus
18 minutes long. We're planning to cut off -- we're proposing to
19 cut off about six minutes up front, about a 20 percent cut of
20 the time. And the last call that we're proposing to play --
21 sorry, not a call, a meeting -- a recording of a meeting, it's
22 this big falling-out meeting that we've heard so much about
23 during these proceedings in November. It includes Mr. Hill,
24 Mr. Gross, Mr. Lebedev, Mr. Murgio, others on the board. The
25 call in total is about an hour long. We have been in

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1 discussions -- we actually just discussed it with counsel, and
2 I think we're in agreement that it makes sense, given how
3 critical that call is, to play the entire call.

4 THE COURT: It's not a call, right?

5 MR. SHIN: My apologies. The recording of a meeting.
6 So I wanted to just note that for your Honor. That's going to
7 take up a substantial amount of time, but we're all agreed that
8 it's a critical piece of evidence in this case.

9 THE COURT: Okay. Was that included in your
10 several-hour estimation?

11 MR. SHIN: Yes, your Honor.

12 THE COURT: Okay. Makes me feel slightly better.

13 (Pause)

14 THE COURT: May I ask: Are the recordings clear? Are
15 there going to be transcripts running? I know you had said you
16 had come to basic agreement on -- how technologically will it
17 be presented?

18 MR. SHIN: The recordings, we've tested, and they're
19 audible, relatively clear. Our proposal had been to have them
20 running and have Ms. Grant run the transcript kind of following
21 along, so that the jury can follow along. It occurs to me -- I
22 believe the defense has signed the transcript stipulation?

23 We reached agreement in principle overnight, so I
24 believe they're executing it now.

25 (Pause)

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1 THE COURT: Thank you.

2 MR. SHIN: Just one other note is that we are planning
3 to go through some of the WhatsApp messages with Mr. Hill as
4 well -- he was on some of those messages -- and we're not
5 planning on reading through entire portions of it, but select
6 excerpts that I'll have Mr. Hill likely read his part, and I
7 will read other parts just to get that in.

8 THE COURT: So that's not repetition of chats already
9 read, right?

10 MR. SHIN: I don't believe so, your Honor. I don't
11 believe any WhatsApps have been read to this point. Oh, right,
12 there was some Wotherspoon read, and there were some Google
13 Chats read, but these are different chats.

14 THE COURT: Okay.

15 MR. SHIN: Thank you.

16 MR. KLINGEMAN: We consent to everything the
17 government has described.

18 I also want to alert the government and the Court that
19 over the lunch break, I reviewed the -- I reviewed the exhibits
20 that the government emailed to us, in terms of the numerical
21 list, late last night on behalf of Mr. Gross, and on behalf of
22 Mr. Gross, I do not anticipate any objections.

23 THE COURT: Thank you.

24 Anything else?

25 We have our jury? All right. We'll bring in the

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1 jury.

2 MR. NOBLE: Judge, we may have one more just brief
3 issue.

4 THE COURT: Okay. Hang on.

5 MR. NOBLE: That will, hopefully, speed things up.

6 (Pause)

7 MR. SHIN: We're --

8 THE COURT: Work it out.

9 MR. SHIN: Thank you, your Honor.

10 (Pause)

11 THE COURT: Folks?

12 MR. SHIN: Counsel has identified one document among
13 the emails that we're planning to use. I'll describe the
14 document. It's an email from this company called Magic
15 Wrighter that HOPE FCU was using in connection with ACH
16 processing. It's Exhibit 2229.

17 So just the context again: This company is writing
18 first to Mr. Gross, and then there is -- a copy of that email
19 was sent to Mr. Hill essentially cutting off services to them
20 in light of risks. The government is offering this document
21 not for the truth of its contents, but for the state of mind,
22 particularly Mr. Gross' state of mind, its effect on the
23 listener. So, again, not for the truth. It helps complete the
24 story of the sequence of Alloya cutting them off, and then
25 Magic Wrighter cutting them off, and then that precipitated the

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1 big -- this was one of the events that precipitated the big
2 meeting at the end of November. So, one, it's necessary to
3 complete the story of the conspiracy; and, two, in any event,
4 it's not offered for the truth, but for state of mind of
5 Mr. Gross.

6 THE COURT: What is it supposed to tell the jury about
7 the state of mind of Mr. Gross?

8 MR. SHIN: When Mr. Gross is told about the risks that
9 are posed by this volume of ACH transactions, his knowledge of
10 that risk in connection with processing all of these ACH
11 transactions that he had been doing to date and continued to
12 after this email even, it goes to his corrupt intent and the
13 intent to be influenced. So he was making these decisions on
14 behalf of the credit union knowing about the risks that were
15 stated to him by these outside vendors that HOPE FCU was using.

16 MS. SANTILLO: Your Honor, we have strong objections
17 to this email.

18 THE COURT: Can you pull up the microphone?

19 MS. SANTILLO: Sorry. We have strong objections to
20 this email, and we have already indicated this to the
21 government, that this is somebody who is speaking about his
22 years of experience in the industry, they're not planning to
23 call this person as a witness, we have no opportunity to
24 cross-examine this person, he's basically purporting to offer
25 his expert opinion about the credit union industry, and it's

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1 highly prejudicial to Mr. Gross.

2 It's a 403 argument, and it's also an expert lay
3 opinion about a witness we're not even going to have an
4 opportunity to examine.

5 THE COURT: Can you blow up --

6 (Pause)

7 THE COURT: All right. Sustained.

8 Bring in the jury.

9 Oh, yes. Can we have Mr. Hill.

10 MS. CHOI: Your Honor, just so we understand the basis
11 of your ruling?

12 THE COURT: Yes. There's a lot of substance that --
13 you say you're not offering it for the truth. I think there is
14 a hearsay problem. I'll say it's hearsay, it's 403, and I
15 think it's also right to say that it's offering highly
16 evaluative opinions without any opportunity to cross-examine
17 them. The suggestion that we can know something regardless of
18 what the truth value is that's interposed in it about what
19 Mr. Gross thought or responded, I just don't find plausible.
20 And in light of the significance of the content of the email to
21 the underlying issues, it's a 403 problem.

22 MS. CHOI: So may I just ask for guidance with regard
23 to that? Tomorrow we're going to have Alloya witnesses discuss
24 the reasons why they decided to cut off HOPE FCU in their ACH
25 processing. There will be two live witnesses. I presume

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1 you're not going to have similar problems with regard to
2 various items that they have recognized, they will lay the
3 foundation for being business records, but they're internal
4 deliberations on the risk it poses to Alloya, so long as
5 they're available for cross-examination?

6 THE COURT: If there's a particular document you want
7 to use as an example, and then I can hear if there is some
8 additional objection.

9 MS. CHOI: I'm just saying I think we may have to air
10 this out tonight because I have to meet with these Alloya
11 witnesses. We have disclosed the 3500 on them, they understood
12 what their testimony would be with regard to Alloya's reasons
13 for cutting off the ACH transactions, which is they pose an
14 incredible risk that was unprecedented at Alloya in terms of
15 what other credit union -- other small credit unions were
16 doing, and that there weren't any controls in place. That's
17 critical evidence, it's material evidence for the government.
18 I think we need to air this out because if it's the case
19 that -- I just don't think there's a basis to exclude their
20 conclusions. It's not something the defense has asked to
21 exclude. They were on notice about this. It wasn't a subject
22 of a motion in limine. So I do think that we may have to deal
23 with this issue tonight.

24 THE COURT: Agreed.

25 MS. CHOI: Similarly, I would just like to place -- so

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1 long as the rulings are consistent, I don't think your Honor
2 has in principle any problem with our calling, if we'd like to
3 get this piece of evidence in, the Magic Wrighter individual to
4 explain the bases for that.

5 THE COURT: If you can lay a foundation, and they're
6 here for cross-examination, and the conclusions that are
7 reached are based on nonspecialized technical, but factual
8 inferences --

9 MS. CHOI: Right.

10 THE COURT: -- that were available based on personal
11 experience, then unless they articulate some separate basis for
12 the objection -- but that's very different.

13 MS. CHOI: No, I understand.

14 THE COURT: Very different.

15 MS. CHOI: I understand. I just wanted to understand
16 the scope. And just to highlight, one of the issues is, these
17 are people who work in credit unions, so they do have some
18 knowledge about how their own credit unions work. I presume
19 your Honor doesn't have an issue with regard to their talking
20 about their own experiences, what they see at Alloya, what they
21 do at Alloya or at Magic Wrighter, in turn. I just think these
22 are things we may need to flesh out tonight, unfortunately.

23 THE COURT: I have invited -- this is now the ninth
24 time. I'm sure you're well aware of the pertinent evidentiary
25 rules and Second Circuit decisions that define the boundaries.

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1 If you want to tee up a particular issue, I'm all ears.

2 MS. CHOI: I think we'll just do that after the --

3 THE COURT: We'll bring in the jury.

4 You may come forward, Mr. Hill.

5 (Continued on next page)

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1 (Jury present)

2 THE COURT: Members of the jury, I hope you had a
3 pleasant lunch on this balmy February day. We will continue
4 with the government's direct examination of Mr. Hill.

5 Mr. Hill, I do remind you that you are under oath.

6 Mr. Shin, you may proceed when you're ready.

7 MR. SHIN: Thank you, your Honor.

8 Ms. Grant, could you display, for the Court,
9 Government Exhibit 4009.

10 Your Honor, we've marked for identification Government
11 Exhibit 4009, which is a stipulation among the parties
12 regarding certain recordings and transcriptions. The
13 government would offer this stipulation into evidence.

14 THE COURT: Without objection?

15 MR. KLINGEMAN: No objection.

16 MR. CREIZMAN: No objection.

17 THE COURT: Thank you.

18 4009 is admitted on stipulation.

19 (Government's Exhibit 4009 received in evidence)

20 MR. SHIN: Ms. Grant, if you could publish this for
21 the jury, please.

22 Paragraph 4 reads: "The first page of the transcripts
23 accurately reflects the following information for each recorded
24 conversation: The original file name and the date modified
25 information associated with the corresponding audio file, if

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1 available; the date that the audio recording was made, if
2 available; the date that the file was sent, if available; the
3 length of the file; the participants in the conversation; and
4 certain abbreviations used in the transcription."

5 Paragraph 5 reads: "The right column of each
6 transcript contains true and accurate transcriptions of the
7 corresponding audio file and descriptions as to events that are
8 heard on the audio file."

9 Paragraph 6: "The left column of each transcript
10 accurately identifies the speaker of the transcribed text and
11 contains accurate timestamps noting the portion of the
12 recording at which the event that was transcribed occurred."

13 And turning back to -- the exhibits covered by the
14 stipulation are 1418-B, 2502, 2504, 2505 and 2506, and the
15 government exhibits with the same numbers, with the letter T
16 added as a suffix, are the corresponding transcriptions,
17 collectively the transcripts.

18 So, at this time, based on the stipulation, the
19 government offers into evidence Government Exhibits 1418-B,
20 2502, 2504, 2505, 2506, as well as Exhibits 1418-B-T, 2502-T,
21 2504-T, 2505-T, and 2506-T.

22 MR. KLINGEMAN: No objection.

23 MR. CREIZMAN: No objection.

24 THE COURT: Thank you.

25 Those set of exhibits just indicated by Mr. Shin are

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Hill - Direct

1 admitted.

2 (Government's Exhibits 1418-B, 2502, 2504, 2505, 2506,
3 1418-B-T, 2502-T, 2504-T, 2505-T, and 2506-T received in
4 evidence)

5 MR. SHIN: At this time, the government also would
6 move, pursuant to Mr. Priest's foundational testimony, for
7 admission into evidence of the following numbered WhatsApp
8 transcriptions: 4500, 4501, 4502, 4504, 4505, 4506, 4507,
9 4508, and 4510.

10 MR. CREIZMAN: No objection.

11 MR. KLINGEMAN: No objection.

12 THE COURT: Thank you.

13 They're admitted.

14 (Government's Exhibits 4500, 4501, 4502, 4504, 4505,
15 4506, 4507, 4508, and 4510 received in evidence)

16 RICARDO HILL, resumed.

17 DIRECT EXAMINATION CONTINUED

18 BY MR. SHIN:

19 Q. Mr. Hill --

20 A. Yes.

21 Q. -- you testified earlier about a company called Kapcharge
22 paying for part of the consulting fees that were paid to Trevon
23 Gross, correct?

24 A. Yes.

25 Q. Are you generally familiar with that company called

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Hill - Direct

1 Kapcharge?

2 A. Yes, I am.

3 Q. How are you familiar with it?

4 A. I worked with them on a daily basis as I received files
5 from them to process the ACH transactions on their account at
6 HOPE.

7 Q. What kind of a business is Kapcharge?

8 A. They are a payment gateway.

9 Q. What does that mean?

10 A. That means they process debits and credits to individuals
11 and businesses.

12 Q. Do you know who those individuals and businesses are?

13 A. No, I don't.

14 Q. Now, we've seen some names of individuals associated with
15 Kapcharge. Could you just tell the jury who are the people
16 associated with Kapcharge that you're aware of?

17 A. Kevin Pepe, Mark Francis, Shoula Cohen, and a few others, I
18 don't know their last names, Christine, Kirk, and Sam.

19 Q. What, if any, relationship was there between Anthony Murgio
20 and individuals from Kapcharge?

21 A. They were previously colleagues or friends before we joined
22 the credit union.

23 Q. How do you know that?

24 A. Just from being on conversations with them when they talked
25 about the past, college years, past parties, just general stuff

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Hill - Direct

1 like that.

2 Q. Did there come a time when Kapcharge became a member of
3 HOPE Federal Credit Union?

4 A. Yes.

5 Q. When was that?

6 A. Shortly after we had taken over the board. So, it was
7 after June. I'm not sure the specific date.

8 Q. This is June of 2014?

9 A. That's correct.

10 Q. Where was Kapcharge located?

11 A. In Montreal, Canada.

12 MR. SHIN: Ms. Grant, if you could show the witness
13 2264, please.

14 Q. Do you recognize this document, Mr. Hill?

15 A. Yes. It's an email chain from Anthony Murgio to Trevon,
16 with myself copied on it. It has an attachment.

17 Q. The date on this email is also August 27th of 2014?

18 A. Yes.

19 MR. SHIN: Now, the government offers 2264 into
20 evidence.

21 THE COURT: Without objection?

22 MR. CREIZMAN: No objection.

23 MR. KLINGEMAN: No objection.

24 THE COURT: Thank you.

25 2264 is admitted.

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Hill - Direct

1 (Government's Exhibit 2264 received in evidence)

2 MR. SHIN: May we publish?

3 THE COURT: You may.

4 BY MR. SHIN:

5 Q. Could you please read for the jury -- under the August 27,
6 2014, 2:56 email by Trevon Gross, could you read the line
7 related to Kap?

8 A. "Kap signed document. No corporate docs yet."

9 Q. Above that, could you please read Anthony Murgio's
10 response?

11 A. "Here it is, just in case."

12 MR. SHIN: Sorry, Ms. Grant. Could you cover the next
13 email as well.

14 Q. So what did Mr. Murgio initially respond?

15 A. "Corporate docs were attached to Kap's email."

16 MR. SHIN: Ms. Grant, could we look at the first
17 attachment, please, or look at the first page of the
18 attachment.

19 Q. Mr. Hill, could you please read the address listed under
20 Kapcharge USA Inc.?

21 A. 1 Westmount Square, Suite 1800, Montreal, Quebec.

22 MR. SHIN: Can we look at the next page, please,
23 Ms. Grant.

24 Q. What is this document, Mr. Hill?

25 A. This is an EIN number for a company, Kapcharge.

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Hill - Direct

1 Q. Specifically, is the company Kapcharge USA Inc.?

2 A. Yes.

3 Q. What is the address listed there?

4 A. 759 Square Victoria, Suite 200, Montreal, Quebec.

5 Q. Now, Mr. Hill, to your knowledge, did Kapcharge have an
6 office in Lakewood, New Jersey?

7 A. No.

8 Q. Did Kapcharge have any employees in Lakewood, New Jersey?

9 A. No.

10 MR. SHIN: Ms. Grant, you can take down the exhibit,
11 please. Thank you.

12 Q. What, if any, services did HOPE FCU provide to Kapcharge?

13 A. ACH processing.

14 Q. What is ACH?

15 A. I just know ACH to stand for all clearinghouse.

16 Q. Do you know of any examples of ACH transactions?

17 A. Yes. Direct deposit from an employer to an employee.

18 Q. Do you know any other examples?

19 A. No, I don't.

20 Q. Do you recall testifying earlier, when we were looking at
21 an email, regarding some early training, including ACH
22 processing?

23 A. Yes.

24 Q. Apart from that training, did you receive any other formal
25 trainings about ACH while you were working at HOPE FCU?

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Hill - Direct

1 A. No.

2 Q. Do you know what kinds of ACH transactions HOPE FCU was
3 processing for Kapcharge?

4 A. Debits and credits.

5 Q. Do you know what those debits and credits were for?

6 A. No, I don't.

7 Q. To your knowledge, over what period of time did HOPE FCU
8 process ACH transactions for Kapcharge?

9 A. From the summer of 2014 to November of 2014.

10 Q. Do you know, one way or another, whether HOPE FCU continued
11 to process ACH transactions for Kapcharge after November 2014?

12 A. No, I don't.

13 Q. Did HOPE FCU process ACH transactions for any other
14 companies?

15 A. No.

16 Q. Now, what, if any, role did you have in helping HOPE FCU
17 process ACH transactions for Kapcharge?

18 A. I manually entered the ACH transactions to the HOPE account
19 via the back end of CU Base.

20 Q. Did you do anything else in connection with ACH processing?

21 A. I also posted -- I compared the previous day's originations
22 to make sure that they were correct.

23 Q. Where were you doing all this from?

24 A. From the office in Tallahassee, Florida.

25 MR. SHIN: Your Honor, may I approach?

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Hill - Direct

1 THE COURT: You may.

2 Q. Mr. Hill, I've handed you what has been marked for
3 identification as Government Exhibits 2141 and 2142. Do you
4 see those in front of you?

5 A. Yes.

6 Q. Let's start with 2141.

7 Do you recognize that item?

8 A. Yes, I do.

9 Q. Just if you could describe for the jury, what physically is
10 that item?

11 A. It's a disk with daily ACH reports on it.

12 Q. So it's a disk?

13 A. It's a disk.

14 Q. That has some data on it?

15 A. Yes.

16 Q. Do you recognize that disk?

17 A. Yes, I do.

18 Q. How do you recognize it?

19 A. My initials are on it.

20 Q. Did you review the contents of that disk?

21 A. Yes.

22 Q. And when did you do that?

23 A. When did I do it?

24 Q. Yes.

25 A. During my meetings with the government.

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Hill - Direct

1 Q. Looking at 2142 now, do you recognize that disk?

2 A. Yes, I do.

3 Q. How do you recognize that?

4 A. My initials are on it.

5 Q. Also, is there a label on that disk?

6 A. Yes.

7 Q. Could you read that label?

8 A. It's the previous day originations and incoming wires.

9 Q. Did you review the contents of that disk?

10 A. Yes.

11 Q. And when was that?

12 A. Also during my meetings with the government.

13 MR. SHIN: Your Honor, the government offers Exhibits
14 2141 and 2142 into evidence.

15 MR. CREIZMAN: No objection.

16 MR. KLINGEMAN: No objection.

17 THE COURT: Thank you.

18 They're admitted.

19 (Government's Exhibits 2141 and 2142 received in
20 evidence)

21 MR. SHIN: Thank you, your Honor.

22 One moment, your Honor?

23 (Pause)

24 MR. SHIN: Ms. Grant, if you could publish -- we'll
25 just publish -- we'll flip through several files that are

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Hill - Direct

1 contained first on 2141. If we could publish -- let's put up
2 1, so 2141-1.

3 THE COURT: Yes.

4 MR. SHIN: If you could display the attachment.

5 THE COURT: I don't think we have it published. There
6 we go. Thank you.

7 MR. SHIN: Actually, before we flip off of this:

8 BY MR. SHIN:

9 Q. Mr. Hill, what is this?

10 A. This is an email from one of my email addresses to another
11 of my email addresses, with attachments.

12 Q. What are these attachments?

13 A. These attachments are ACH -- they're spreadsheets
14 containing ACH transactions. These are the transactions that I
15 posted on Kapcharge's account.

16 Q. You're emailing these from one of your addresses to another
17 one of your own addresses?

18 A. Yes.

19 Q. Where did you get these attached files from?

20 A. From the email I received from Kapcharge.

21 Q. Just curious: Why are you writing that note to yourself in
22 that email?

23 A. I'm sorry?

24 Q. This is an email from yourself to yourself. Why are you
25 writing that little note to yourself?

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Hill - Direct

1 A. I don't know. Just to make sure they all were saying the
2 same thing, to make sure I know that these has attachments on
3 it.

4 MR. SHIN: Ms. Grant, could you display -- we'll just
5 flip through each of the attachments, please.

6 Q. Now, if you could just generally describe for the jury,
7 what is this file?

8 A. This is a spreadsheet with individual transactions on them.
9 This is what I use to -- this is what I use to get the name,
10 the date, and the transaction amount to post to the Kapcharge
11 account via CU Base.

12 Q. What's the date on the spreadsheet?

13 A. August 20th, 2014.

14 Q. Now, can you point out for the jury, what's the total
15 amount of these transactions here?

16 A. \$3,896.

17 Q. What's the total of credits?

18 A. Zero.

19 Q. That total amount, less than \$4,000, is that representative
20 of the ACH transactions that you were processing during your
21 time at HOPE FCU?

22 A. I mean, in the beginning, it was smaller, but it got much
23 bigger.

24 Q. When you received this file from Kapcharge, what did you
25 actually do with it?

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Hill - Direct

1 A. I would open it up on my computer, so I can see the data
2 all laid out. I would then log into CU Base, open Kapcharge's
3 account, go to the section that I would enter the ACH
4 transactions, and then following the code, the amount, and
5 name, I would enter the name, the individual's name, the
6 transaction code, and the amount, and the date.

7 Q. And you would do that for each transaction?

8 A. Yes.

9 Q. And you couldn't just copy and paste this in?

10 A. No.

11 Q. You had to manually enter it?

12 A. You had to manually enter in the name, transaction code,
13 amount, and the date.

14 Q. How often were you doing this?

15 A. Every day, Monday through Friday.

16 Q. How much time did that take up for you?

17 A. In the beginning, they were short like this -- this
18 wouldn't take long -- but it began to take up hours and hours
19 of the day.

20 Q. Did you encounter any difficulties in doing that task?

21 A. Yes. I'm manually entering tons and tons of transactions,
22 so there have been a lot of mistakes entering the wrong number,
23 you know, just going too fast, misspelling a name, putting in
24 the wrong transaction code. It could be a number of things.

25 MR. SHIN: Just so we can get one more example for the

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Hill - Direct

1 jury, Ms. Grant, if you could put up number 31 out of this set.
2 If you close out this spreadsheet. Let's look at 31.

3 BY MR. SHIN:

4 Q. Is this another one of those emails?

5 A. Yes, it is, with an attachment of an ACH spreadsheet.

6 Q. And what's the date here?

7 A. October 17, 2014.

8 Q. So here you're sending it from one of your addresses to one
9 of your other addresses, but also to Kevin Pepe?

10 A. Yes.

11 Q. At Kapital Inc.?

12 A. Yes.

13 Q. He's from Kapcharge; is that right?

14 A. Yes, he works at Kapcharge.

15 Q. Why were you sending this to him?

16 A. He probably requested a copy of it if he wasn't there that
17 day. I usually receive them from Kevin on a day-to-day basis,
18 but if Kevin missed a day or wasn't at work, he will also like
19 to have a copy of the transaction -- I mean the spreadsheet.
20 So I was just sending them to him if he missed it. I could
21 have gotten it from Sam or Christine if Kevin wasn't in.

22 MR. SHIN: Ms. Grant, could you open up the
23 spreadsheet, please. If you could scroll down, please.

24 Q. So, what's the totals here?

25 A. The total debits? \$1,043.75. Total credits: \$7,611.46.

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Hill - Direct

1 Q. Over the course of the time you were doing this, is this a
2 lot of transactions? Is this on the high end or the lower end
3 of transactions that you were doing on a daily basis?

4 A. This is on the lower end.

5 Q. So still on the lower end?

6 A. Yes.

7 Q. All right. So this was the -- we talked now about your
8 entering the transactions on a daily basis. What was the other
9 piece that you were doing regularly?

10 A. Just double-checking the previous day's originations to
11 make sure that I entered the numbers correctly and also posting
12 any incoming wires that were sent to me.

13 MR. SHIN: Ms. Grant, could you please publish, for
14 the jury, 2142, number 2, subnumber 2.

15 Q. Why don't you just walk us through this email. First, what
16 is this email, Mr. Hill?

17 A. This is an email from Christine at Kapcharge to myself with
18 others attached.

19 I would get these daily. It's the previous day
20 origination totals for posting to the Kapcharge account, which
21 is the 6527000. And, also, it will reflect the incoming wire
22 to be posted to the account, and I would have a wire
23 confirmation attached to this email.

24 Q. First, who are the recipients of this email?

25 A. Myself, Trevon, Anthony Murgio, and copied would be

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Hill - Direct

1 Kapcharge employees, Shoula, Kevin, Kirk.

2 Q. So just to make sure we understand, what does it mean,
3 "previous day origination totals"?

4 A. These were debit and credit originations from the day
5 before.

6 Q. So these are the total amounts --

7 A. Yes, debits and total amounts for credits.

8 Q. So what you had entered the prior day --

9 A. Yes.

10 Q. -- using the spreadsheet; is that right?

11 A. Yes.

12 Q. And what are the totals here for credit posting and debit
13 posting?

14 A. For credit posting is \$22,499.69, and for debit posting,
15 \$1,074,557.71.

16 Q. There's a reference -- below that little chart in the
17 email --

18 A. Uh-huh.

19 Q. -- there's a reference to a wire today?

20 A. Yes.

21 Q. What's the total there?

22 A. The total for the wire is \$869,701.

23 Q. What, if anything, did you do with that wire that was sent
24 to you, the wire information that was provided to you?

25 A. I would first check if there was an attached wire

H2NKLEB5

Hill - Direct

1 confirmation, and, if so, I would post that wire to the 6527
2 account, which is Kapcharge's account with HOPE.

3 MR. SHIN: Ms. Grant, could we look at the next page
4 of this exhibit, please.

5 Q. What is this?

6 A. This is a wire confirmation.

7 Q. So this was the attachment to the email we were just
8 looking at, right?

9 A. Yes.

10 Q. Looking at this, do you know where the money was going from
11 and where it was going to, where the money was from and where
12 it was going?

13 A. I'm sorry, can you ask that again?

14 Q. Do you know where the money was being sent from, what
15 entity or what -- who was the sender of this wire?

16 A. Kapcharge.

17 Q. Who was the beneficiary?

18 A. HOPE FCU.

19 MR. SHIN: Could we look at the next page, Ms. Grant.

20 Q. Do you see at the top there? Could you read that section
21 there starting with the upper left? It seems a little obscured
22 by that corner.

23 A. That's the intermediary bank.

24 Q. And what is the bank name?

25 A. HSBC Bank USA National Association.

H2NKLEB5

Hill - Direct

1 Q. What's the address listed for that bank?

2 A. 452 Fifth Avenue, New York City, New York.

3 Q. Let's just look at one more example of this, Mr. Hill.

4 MR. SHIN: Ms. Grant, could you put up number 21 in
5 this set.

6 Q. What is this, Mr. Hill?

7 A. This is also a previous day origination and incoming wire
8 email from Christine at Kapcharge to myself on October 15,
9 2014.

10 Q. Are you the only recipient?

11 A. No, I'm not. It's to me, Trevon Gross, with others
12 attached, other Kapcharge employees, Kevin, Kirk, Shoula.

13 Q. And also Anthony Murgio?

14 A. And Anthony Murgio.

15 Q. Is the overall content of this email generally similar to
16 the one we looked at earlier?

17 A. Yes. It will have totals for -- credit posting totals for
18 debit posting and also the amount of the wire that was sent in
19 today with an attachment of the wire confirmation.

20 Q. What's the total credit origination for debit posting in
21 this email?

22 A. The total for debit posting is \$2,616,300.61.

23 Q. So just to be clear, what does that number have to do with
24 the other category of tasks that you were describing earlier?
25 What does that number have to do with what you were doing

H2NKLEB5

Hill - Direct

1 otherwise?

2 A. That's the total number of debits posted to that account.

3 Q. Is that referencing to what you had entered in the day
4 before from the spreadsheets?

5 A. Yes.

6 Q. So what this means, just to be clear, is that the prior
7 day, you had entered in \$2.6 million worth of transactions from
8 a spreadsheet?

9 A. Yes.

10 MR. SHIN: Could we just look at the next page of this
11 exhibit, please, Ms. Grant.

12 Q. Is this another wire instruction?

13 A. This is another wire confirmation.

14 Q. Again, is this similar to what we looked at previously?

15 A. Yes.

16 MR. SHIN: Ms. Grant, if you could just turn to the
17 next page, please.

18 Q. What's the intermediary bank listed on this wire
19 instruction?

20 A. HSBC Bank USA National Association. The address, 452 Fifth
21 Avenue, New York City, New York.

22 MR. SHIN: You can take that down, please, Ms. Grant.

23 Q. So we've only looked at a couple of examples of each of
24 these things. How often were you getting -- let's start with
25 the spreadsheets. How often were you getting those?

H2NKLEB5

Hill - Direct

1 A. Monday through Friday, every day.

2 Q. So Monday through Friday, every day?

3 A. Yes.

4 Q. Every week?

5 A. Every day, every week, Monday through Friday.

6 Q. What about the other set, the previous day origination
7 emails?

8 A. Every day, Monday through Friday.

9 Q. Who else was involved at HOPE FCU in dealing with ACH
10 transactions for Kapcharge?

11 A. Myself, Trevon, and Yuri Lebedev.

12 Q. So what was Yuri Lebedev's role with respect to ACH for
13 Kapcharge?

14 A. He was just searching for third-party companies to help
15 automate what I was doing manually.

16 Q. Why were you looking to automate what you were doing
17 manually?

18 A. Because it was the worst ever doing individual transactions
19 one by one for those totals. It would take hours and hours for
20 me to do that.

21 Q. What was Trevon Gross' role with respect to ACH for
22 Kapcharge?

23 A. To ensure that I entered everything correctly. He just
24 double-checked to make sure that they were getting done because
25 I was -- you know, I would give up some days and not complete

H2NKLEB5

Hill - Direct

1 it.

2 Q. So was he involved with you regularly in connection with
3 those tasks?

4 A. Yes. They would have to be done on a daily basis, or
5 should have been done on a daily basis, so he just made sure
6 that I was completing the task.

7 MR. SHIN: Ms. Grant, if you could display, for the
8 witness, GX 2164.

9 Q. Do you recognize this document, Mr. Hill?

10 A. Yes. This is an email from myself to Trevon in reference
11 to one of the Kapcharge emails about the previous day
12 originations.

13 MR. SHIN: The government offers 2164 into evidence.

14 MR. CREIZMAN: No objection.

15 MR. KLINGEMAN: No objection.

16 THE COURT: Thank you.

17 2164 is admitted.

18 (Government's Exhibit 2164 received in evidence)

19 MR. SHIN: If you could please publish that for the
20 jury, Ms. Grant.

21 Q. Just to orient ourselves, the bottom half of the email, is
22 that one of these previous day origination emails that we were
23 talking about earlier?

24 A. Yes.

25 Q. Just so we know, what's the total that we're talking about

H2NKLEB5

Hill - Direct

1 here in this email?

2 A. The total for credit posting is \$35,753.86. For debit
3 posting, \$1,884,860.87. I can't see if there's a wire.

4 Q. I'm sorry, we'll move on.

5 MR. SHIN: Ms. Grant, could you focus on the top
6 portion, the top half now, of the email.

7 Q. What did Trevon Gross write to you in that email?

8 A. "Hey, I thought you said you were all done with posting
9 returns for last week."

10 Q. And what did you respond?

11 A. "Returns for yesterday and the 25th? Sorry, I missed that
12 one. And the originations have been posted."

13 Q. Just for clarity, what was this -- what was the posting
14 returns that you and Mr. Gross are discussing?

15 A. In addition to sending me spreadsheets and the previous
16 day's originations, Kapcharge would also list any returns that
17 needed to be posted for debit or credit, and I was supposed to
18 check for those and have those posted to the account, also.

19 MR. SHIN: Ms. Grant, if you could display, for the
20 witness, 2166, please.

21 Q. Mr. Hill, do you recognize this document?

22 A. Yes. This is an email chain from Trevon to myself.

23 Q. And it's dated October 1, 2014?

24 A. Yes.

25 MR. SHIN: The government offers 2166 into evidence.

H2NKLEB5

Hill - Direct

1 MR. CREIZMAN: No objection.

2 MR. KLINGEMAN: No objection.

3 THE COURT: Thank you.

4 2166 is admitted.

5 (Government's Exhibit 2166 received in evidence)

6 MR. SHIN: Now, if we could just look at the very
7 bottom email first. Sorry, if you could include the sender as
8 well, so we could see who sent that email. Thank you.

9 BY MR. SHIN:

10 Q. So what is Christine Carida from Kapital Inc. writing to
11 you here -- writing to you and others?

12 A. "Hello. We have sent in a wire today for \$2,251,591 to be
13 posted to the 6527 account."

14 MR. SHIN: Ms. Grant, if you could just zoom in the
15 entire top half of the email.

16 Q. What did Trevon Gross write to you?

17 A. "Did you post the wire transfer?"

18 Q. What did you respond?

19 A. "No. You said not to."

20 Q. What did he respond?

21 A. "Our balance was still high last night."

22 Q. Do you know what he meant by that?

23 A. I don't remember, but I think, because this is at the end
24 of the month --

25 MR. KLINGEMAN: Objection.

H2NKLEB5

Hill - Direct

1 THE COURT: Sustained.

2 Q. Do you recall, while you were working at HOPE FCU with
3 Trevon Gross, were there issues about balances being high from
4 the night before? Did you ever encounter those issues?

5 A. Only a couple of times.

6 Q. Do you have an understanding of what the issue was those
7 couple of times you encountered it?

8 A. Yes.

9 Q. What was it?

10 A. Towards the end of the month, the balances should
11 reflect -- should only reflect transactions that we were well
12 capitalized for.

13 Q. So what does it mean for a balance to be still high?

14 A. That means that our transactions throughout that month were
15 too high for our capitalization requirements. That means we
16 only had a certain amount of operating capital and, therefore,
17 should only have a certain amount of transactions, but if our
18 balance was high, our transactions were way higher than they
19 should be.

20 Q. You mentioned capitalization in your answer. In general
21 terms, can you describe what that is, capitalization or
22 capitalization requirements?

23 A. Yes. A credit union, such as ourselves, HOPE, we should
24 have at least 10 percent of our transaction volume on our
25 operating account.

H2NKLEB5

Hill - Direct

1 Q. How is it that you know about this?

2 A. I learned from Trevon.

3 MR. SHIN: Ms. Grant, could you please display, for
4 the witness, 2169.

5 Q. Do you recognize this document, Mr. Hill?

6 A. Yes. This is an email from Trevon to myself on October 2nd
7 of 2014.

8 MR. SHIN: The government offers 2169 into evidence.

9 MR. KLINGEMAN: No objection.

10 MR. CREIZMAN: No objection.

11 THE COURT: Thank you.

12 2169 is admitted.

13 (Government's Exhibit 2169 received in evidence)

14 MR. SHIN: Ms. Grant, if you could please publish that
15 for the jury.

16 Q. Could you please read the bottom email that you wrote,
17 Mr. Hill?

18 A. "Hey there. How's everything? Need me to do anything?
19 Any reply about workstation ID? I only have to post returns
20 for today."

21 Q. Why were you writing "Need me to do anything"?

22 A. I will always check in with Trevon to see if there was
23 anything that needs to be done on the back end of the CU.

24 Q. How regularly would you check in with him?

25 A. Only when I didn't have any tasks or when I had completed

H2NKLEB5

Hill - Direct

1 any other tasks that he had given me before.

2 Q. Now, what's this reference here to "workstation ID"?

3 A. The workstation that was sent to the office, to the
4 Tallahassee location, it had to be set up. So I was still
5 awaiting for my workstation ID to be reset because I locked
6 myself out of it trying to set it up and putting in the wrong
7 password, so I had to get a new one. I had to get a new
8 workstation ID.

9 Q. Did Mr. Gross provide you any direction here?

10 A. Yes. He just told me to call CU Base and have them walk me
11 through how to set it up.

12 MR. SHIN: Ms. Grant, if you could display, for the
13 witness, 2170, please.

14 Q. Do you recognize this document?

15 A. Yes. This is an email from Trevon to myself on
16 October 2nd.

17 MR. SHIN: The government offers 2170 into evidence.

18 MR. KLINGEMAN: No objection.

19 MR. CREIZMAN: No objection.

20 THE COURT: Thank you.

21 2170 is admitted.

22 (Government's Exhibit 2170 received in evidence)

23 MR. SHIN: Would you please publish that for the jury,
24 Ms. Grant.

25 Q. What's the subject line here?

H2NKLEB5

Hill - Direct

1 A. "Workstation ID."

2 MR. SHIN: Ms. Grant, if you could highlight the lower
3 half of the email -- of the document, please.

4 Q. Just at the top there, Mr. Hill, what did Trevon Gross
5 write?

6 A. "See below. Did Greg call you?"

7 Q. Do you know what that's in reference to?

8 A. Yes.

9 Q. What is it?

10 A. They're from CU South, who was going to help me set up the
11 workstation.

12 MR. SHIN: Ms. Grant, could you highlight the top half
13 of the email, please.

14 Q. What did you respond?

15 A. "No. I spoke with Keith Kramer. I have workstation ID,
16 but have to call helpline to set up the GUAPLLE in the a.m."

17 Q. Do you know how to spell GUAPLLE?

18 A. Only from me looking at it here. G-U-A-P-L-L-E.

19 Q. And what did Trevon Gross respond?

20 A. "They are still open to 6:00."

21 Q. Did you have an understanding of what he meant by telling
22 you they're open till 6:00?

23 A. I should call right now, I got nine minutes.

24 Q. So he expected you to call right away?

25 A. Yeah.

H2NKLEB5

Hill - Direct

1 MR. SHIN: Ms. Grant, if you could display, for the
2 witness, 2171, please.

3 Q. Do you recognize this document, Mr. Hill?

4 A. Yes. This is the email from Trevon to myself.

5 Q. It's dated October 3rd, 2014?

6 A. Yes.

7 MR. SHIN: The government offers 2171 into evidence.

8 MR. CREIZMAN: No objections.

9 MR. KLINGEMAN: No objections.

10 THE COURT: Thank you.

11 2171 is admitted.

12 (Government's Exhibit 2171 received in evidence)

13 MR. SHIN: Ms. Grant, if you could publish that for
14 the jury.

15 If you could highlight the top half. A little further
16 down. Thank you.

17 Q. What does Mr. Gross write at the bottom?

18 A. "Greg is calling for you."

19 Q. There's an exclamation point there?

20 A. Yes.

21 Q. What do you respond?

22 A. "I'm on with CU answer still setting up the GUAPLLE."

23 Q. What does Mr. Gross respond?

24 A. "Let me know when it's resolved."

25 Q. Now, we've looked at --

H2NKLEB5

Hill - Direct

1 MR. SHIN: We can take the exhibit down, Ms. Grant.

2 Q. We've looked at several emails on this issue with the
3 workstation ID. Do you recall this -- in addition to these
4 emails, do you recall this issue coming up at the time?

5 A. Yes.

6 Q. Do you recall your discussions with Mr. Gross?

7 A. Yes.

8 Q. Did you get a sense from your conversations the urgency
9 with which he wanted you to deal with this?

10 A. Yes.

11 Q. Could you describe what that was?

12 A. Well, he wanted to make sure that I stayed on top of it
13 because it was -- it had been going on for a couple of weeks
14 now, and it was important that I get it set up, so I can start
15 doing the work and doing my working tasks on the workstation
16 that was sent to me. So he just made sure that I stayed on top
17 of it until I got it done.

18 Q. He was directing you?

19 A. Yes.

20 MR. SHIN: Ms. Grant, if you could display, for the
21 witness, 2176.

22 Q. Do you recognize this document?

23 A. Yes. It's one of Kapcharge's previous day originations and
24 incoming wire forwarded. Trevon is replying to it for me.

25 MR. SHIN: The government offers 2176 into evidence.

H2NKLEB5

Hill - Direct

1 MR. KLINGEMAN: No objection.

2 MR. CREIZMAN: No objection.

3 THE COURT: Thank you. It's admitted.

4 (Government's Exhibit 2176 received in evidence)

5 MR. SHIN: If we could publish that for the jury,

6 Ms. Grant.

7 Q. Just generally, is this bottom half another one of those
8 previous day origination emails?

9 A. Yes, with a wire attached -- I mean with a wire and a wire
10 confirmation attached.

11 Q. What does Trevon Gross write to you at the top of that
12 email?

13 A. "Please confirm receipt and post today."

14 MR. SHIN: You can take that down, Ms. Grant.

15 If you could please display, for the witness, 2182.

16 Q. Do you recognize this document?

17 A. Yes. It's also an email from Trevon to myself.

18 Q. It's dated October 9, 2014?

19 A. Yes.

20 MR. SHIN: The government offers 2182.

21 MR. CREIZMAN: No objection.

22 MR. KLINGEMAN: No objection.

23 THE COURT: Thank you. 2182 is admitted.

24 (Government's Exhibit 2182 received in evidence)

25 (Continued on next page)

H2NOLEB6

Hill - Direct

1 BY MR. SHIN:

2 Q. Now, Mr. Hill, if you could look at the bottom.

3 MR. SHIN: Actually, Ms. Grant, if you could flip to
4 the second page?

5 Q. Is this another one of those previous-day origination
6 emails?

7 A. Yes, with also a wire and an attached wire confirmation.

8 MR. SHIN: If we could turn to the first page,
9 Ms. Grant? Let's begin at the bottom. The bottom half of the
10 page.

11 Q. What does Mr. Gross write there? Do you see right in the
12 middle there on Thursday?

13 A. Yes. "Has this been handled? Have you asked for
14 verification? I have not seen any responses."

15 MR. SHIN: Then if you could scroll up, Ms. Grant, so
16 we could see the next response? You can just highlight the top
17 half, please. Thank you. Let's capture the entire top half,
18 please.

19 Q. What was your response?

20 A. "Yes. I'm sorry. I replied to Christine."

21 Q. What did you mean by that?

22 A. I did reply to Christine, but I apologized if he didn't see
23 any response. I would always let them know that I received it
24 and I was on it. I was going to post it.

25 Q. All right. And what did Mr. Gross respond?

H2NOLEB6

Hill - Direct

1 A. "Please always copy me so that we can have checks and
2 balances."

3 Q. So when you replied to Christine, had you copied Mr. Gross?

4 A. No, probably not this time. I probably missed it. But I
5 did that at times, I missed it.

6 Q. Do you know why he wanted you to copy him?

7 A. Just so he could -- he can always know what was coming
8 through, what was being posted. Just another way to keep
9 posted on my task.

10 Q. So he wanted to keep tabs on you?

11 A. Yes.

12 MR. KLINGEMAN: I'm sorry. I couldn't catch counsel's
13 question.

14 MR. SHIN: I had said, "So he wanted to keep tabs on
15 you."

16 MR. KLINGEMAN: Thank you.

17 MR. SHIN: You can take that down, Ms. Grant.

18 Ms. Grant, could you queue up Government's
19 Exhibit 2502, and also the corresponding transcript, 2502-T?

20 THE COURT: Just while you're getting that, I'll
21 invite the jury to stand and stretch with me.

22 (Pause)

23 THE COURT: Okay.

24 MR. SHIN: Ms. Grant, could you publish 2502-T, the
25 transcript? Yes.

H2NOLEB6

Hill - Direct

1 BY MR. SHIN:

2 Q. Mr. Hill, have you seen this document before?

3 A. Yes.

4 Q. What is it?

5 A. It's a call between myself, Anthony, Trevon, and
6 Kapcharge -- well, Sheila, Mark, and Kevin from Kapcharge.

7 Q. All right. The recording that corresponds with this, have
8 you listened to the recording?

9 A. Yes.

10 Q. Just to be clear, you were a participant on this call?

11 A. Yes.

12 Q. And how do you know that you were a participant on this
13 call?

14 A. How do I know that?

15 Q. Right. Did you say --

16 A. I heard myself --

17 Q. Please.

18 A. I heard myself on the call.

19 MR. SHIN: Ms. Grant, if you could start playing the
20 recording, please, and have the transcript follow along for the
21 jury's benefit?

22 (Recording played)

23 THE COURT: Let's pause, please. We're going to take
24 our midafternoon break. About 10 minutes, members of the jury.

25 (Continued on next page)

H2NOLEB6

Hill - Direct

1 (Jury not present)

2 THE COURT: How much is left in this audio?

3 MR. SHIN: I believe this audio only has about four
4 minutes left or so.

5 THE COURT: And then are we straight into the meeting
6 audio?

7 MR. SHIN: No, that comes later, your Honor.

8 THE COURT: Are you going to finish your direct today?

9 MR. SHIN: It is looking -- I'm more pessimistic than
10 I was earlier, your Honor. There are other parts of the story
11 still to remain.

12 MR. KLINGEMAN: I wanted to excuse the witness.

13 THE COURT: That's fine. Yes. Thank you.

14 You may step down.

15 Thank you, Mr. Klingeman.

16 MR. SHIN: I'll wait, your Honor.

17 (Pause)

18 THE COURT: Thank you. Go ahead.

19 MR. SHIN: So just seeing where we are now in my
20 outline, your Honor, it does appear that we won't be able to
21 finish today. We had been hoping to play a portion of that
22 recording. There was some that we were going to chop off,
23 defense counsel wanted the entire record for completeness. Not
24 to completely lay the blame on them, we didn't give them a ton
25 of time to review it, so I think we share that responsibility

H2NOLEB6

Hill - Direct

1 there, your Honor.

2 I mentioned that there's a shorter recording that
3 we're planning on playing, and then the large November meeting
4 recording, but there are also some other topics of testimony
5 that I'm planning to cover with the witness, and so at this
6 point, given that it's already almost 3:30, I don't think we're
7 going to finish today, your Honor, the direct. And I apologize
8 for being perhaps overly optimistic earlier slash not very good
9 at estimating my time here.

10 THE COURT: Okay. We'll return shortly.

11 Anything to take up before we go?

12 MR. NOBLE: No, Judge.

13 THE COURT: Okay.

14 (Recess)

15 THE COURT: Matters to take up?

16 MR. SHIN: Nothing from the government, your Honor.

17 THE COURT: Okay. Anything, folks, before we bring
18 the jury back? Let's give them a minute warning. Thank you.

19 A few minutes left in this, and then about how long
20 until we get to the next audio? I guess my basic question is,
21 will we get to the longer audio today, correct?

22 MR. SHIN: I don't think we're going to get into that
23 today, no, your Honor. That audio is one of the last areas of
24 the direct, your Honor, and so we'll get through a few more
25 areas of direct that I expect to get to, and I anticipate

H2NOLEB6

Hill - Direct

1 tomorrow will be that meeting, we'll get into that meeting and
2 including that audio, your Honor.

3 THE COURT: Let's get the jury. I should tell you,
4 just on scheduling, the Tuesday appointment issue seems to have
5 resolved itself. The juror was able to make a morning
6 appointment. We still have the Wednesday leave slightly early
7 issue, which I'll let them know at the end of the day. Let's
8 bring them in.

9 (Continued on next page)

H2NOLEB6

Hill - Direct

1 (Jury present)

2 THE COURT: Mr. Shin, you may proceed.

3 MR. SHIN: Your Honor, may we resume the playing of
4 the recording?

5 THE COURT: You may.

6 MR. SHIN: Thank you.

7 (Recording played)

8 BY MR. SHIN:

9 Q. Mr. Hill.

10 A. Yes.

11 Q. Did there come a time when Trevon Gross raised concerns
12 about ACH processing for Kapcharge?

13 A. Yes.

14 Q. Generally speaking, what were the concerns?

15 A. The volume, the high amount that we were doing on a daily
16 basis.

17 Q. And you had discussions with him about his concerns?

18 A. Yes.

19 MR. SHIN: Ms. Grant, could you display for Mr. Hill
20 1427-D?

21 Q. Do you recognize this document?

22 A. Yes. This is an email from Trevon and myself -- to Anthony
23 with myself copied on September 17th of 2014.

24 MR. SHIN: Government offers 1427-D into evidence.

25 MR. CREIZMAN: No objection.

H2NOLEB6

Hill - Direct

1 MR. KLINGEMAN: No objection.

2 THE COURT: Thank you. 1427-D admitted.

3 (Government's Exhibit 1427-D received in evidence)

4 MR. SHIN: Could you publish for the jury, please?

5 And could you zoom in on the lower half of the document?

6 BY MR. SHIN:

7 Q. Mr. Hill, so at the bottom there, I'll read what Trevon
8 Gross wrote. "Hey, I got a call from them and they have more
9 questions about our processing. Kapcharge is putting through
10 \$1 million per day so they are very nervous." Did I read that
11 correctly?

12 A. Yes.

13 Q. How did Anthony Murgio respond?

14 A. "So what should we do?"

15 Q. Trevon Gross responded, "I'll talk to them. They are just
16 nervous. We just need to have on record all paperwork. This
17 week alone we have moved over \$5 million. I don't know too
18 many credit unions doing that." Is that accurate?

19 A. Yes.

20 MR. SHIN: Top half of the email, please, Ms. Grant.

21 Q. And how did Anthony Murgio respond?

22 A. "Oh, yeah. That's how we do. Let's go. Ha ha. But
23 seriously, I want to make sure that we have everything they
24 want and you want so all parties will feel comfortable. Do you
25 know the fees we made?"

H2NOLEB6

Hill - Direct

1 Q. How did Mr. Gross respond, at the very top email?

2 A. "LOL! I will talk with them tomorrow and put them at
3 ease."

4 Q. I didn't mention this at the beginning. What is the
5 subject line of this email?

6 A. "Alloya".

7 Q. Could you remind the jurors what Alloya was?

8 A. They're a corporate credit union. They're HOPE FCU's
9 corporate credit union.

10 MR. SHIN: Ms. Grant, could you please display for
11 Mr. Hill 2155?

12 Q. Do you recognize this document?

13 A. Yes, this is an email from Trevon to myself with
14 attachments on September 29th of 2014.

15 MR. SHIN: Government offers 2155 into evidence.

16 MR. CREIZMAN: No objection.

17 MR. KLINGEMAN: No objection.

18 THE COURT: Thank you. 2155 is admitted.

19 (Government's Exhibit 2155 received in evidence)

20 MR. SHIN: Please publish this for the jury.

21 Ms. Grant, could you actually turn to the attachment, the
22 second page of the attachment?

23 BY MR. SHIN:

24 Q. Mr. Hill, in the upper right-hand corner, do you see the
25 name next to business consultant?

H2NOLEB6

Hill - Direct

1 A. Yes.

2 Q. What's the name?

3 A. Sandy Albertson.

4 Q. Do you recognize that name?

5 A. Yes. She's from Alloya.

6 MR. SHIN: We can zoom out, please, Ms. Grant.

7 Q. So is this an Alloya document, this attachment?

8 A. Yes.

9 MR. SHIN: Ms. Grant, could you please turn to the
10 prior page?

11 Q. Mr. Hill, could you actually read the footnote at the
12 bottom of this page?

13 A. "Capital Solutions wires into HOPE deposits of 1.5 million
14 to be sent via ACH to others."

15 MR. SHIN: Ms. Grant, could you turn to the email?
16 Zooming in on the email.

17 Q. Could you please read that first paragraph of what Trevon
18 Gross wrote to you and Mr. Murgio?

19 A. "Hey, guys. It was a brief call. I basically said stop
20 telling us what we can't do and tell us what we need to do to
21 keep going. They were questioning capitalization based on the
22 transactions of Kapcharge. I asked them to just give us a
23 number so they are going to take a couple of days to get back
24 to us. Basically here's what we know. They're going to want
25 to see 10 percent of transactions to enter in the account.

H2NOLEB6

Hill - Direct

1 They are using the attached document. The issue is though that
2 this would have to be revenue to the CU and not in members'
3 reserves. It basically boils down to having about 150K on the
4 books as revenue."

5 MR. SHIN: Ms. Grant, could you display for the
6 witness 2168?

7 Q. Do you recognize this document, Mr. Hill?

8 MR. KLINGEMAN: Could we have the last paragraph of
9 that exhibit read, as well?

10 THE COURT: Yes. If you could go back and just show
11 the last paragraph.

12 THE WITNESS: Read it?

13 MR. KLINGEMAN: If I could have the witness read it,
14 please.

15 THE WITNESS: "The truth is."

16 MR. SHIN: Objection, your Honor.

17 THE COURT: No. You can do it on cross.

18 Move on.

19 MR. SHIN: Ms. Grant, 2168, please.

20 BY MR. SHIN:

21 Q. Do you recognize this document, Mr. Hill?

22 A. Yes. This is an email from Trevon to myself with a couple
23 people attached, Jose, Anthony, on October 2nd of 2014.

24 MR. SHIN: Government offers 2168 into evidence.

25 MR. KLINGEMAN: No objection.

H2NOLEB6

Hill - Direct

1 MR. CREIZMAN: No objection.

2 THE COURT: Thank you. 2168 is admitted.

3 (Government's Exhibit 2168 received in evidence)

4 MR. SHIN: Would you please publish it for the jury,
5 Ms. Grant? Actually, could we look at the attachment? If you
6 could zoom in to the blue block on the left.

7 BY MR. SHIN:

8 Q. Mr. Hill, what's the total volume of credits and debits in
9 September of 2014?

10 A. The total credits in September, '14 are \$10,513,960, and
11 the total debits for September, 2014 is \$115,717.

12 Q. Reading this document, do you understand what the numbers
13 next to those dollar amounts are, the 4,029 and the 389?

14 A. Yes.

15 Q. What are those?

16 A. Transactions.

17 Q. Those are the numbers of transactions?

18 A. Yes.

19 Q. So those are the numbers of transactions you entered during
20 that month?

21 A. Yes.

22 Q. A lot of typing.

23 A. I told you. Ha ha.

24 MR. SHIN: Ms. Grant, 2178-A for the witness, please?

25 Q. Do you recognize this document, Mr. Hill?

H2NOLEB6

Hill - Direct

1 A. Yes. This is an email from Trevon to Anthony with myself
2 attached from October 9th of 2014.

3 MR. SHIN: Government offers 2178-A into evidence.

4 MR. KLINGEMAN: No objection.

5 MR. CREIZMAN: No objection.

6 THE COURT: Thank you. 2178-A is admitted.

7 (Government's Exhibit 2178-A received in evidence)

8 MR. SHIN: Could we publish that to the jury, please?

9 BY MR. SHIN:

10 Q. Could you please read this email that Trevon Gross wrote?

11 A. "Hey Anthony. Alloya got back to us and here's what they
12 are saying based on our current activity. We would need to
13 place permanently with them 160K. They would then give us 50
14 times as a line of credit which is \$8 million. Once we give
15 them this 160K it is a permanent investment with them. We get
16 interest, but we can never, ever, ever get it back. It's
17 always ours, but we cannot redeem it. \$2 million in prefunding
18 for transactions that they will sweep every day and then return
19 after settlement, show that we have been trained by the payment
20 authority, that we have a dedicated individual to ACH
21 transactions."

22 Q. Mr. Hill, do you recall this issue with the \$160,000 and
23 Alloya?

24 A. Yes.

25 Q. Could you just explain to the jury just in general terms

H2NOLEB6

Hill - Direct

1 what was going on?

2 A. After Alloya noticed the amount of transactions we were
3 doing, they let us know that we needed to have this permanent
4 deposit at their CU, at their corporate CU, but it was a
5 permanent deposit which we earn interest on, but this was the
6 only way they would give us enough line of credit to continue
7 making the transactions that we were doing.

8 MR. SHIN: Ms. Grant, 2190 for the witness, please?

9 Q. Do you recognize this document?

10 A. Yes. This is an email from myself to Trevon about our
11 Alloya origination summary from October 17, 2014.

12 MR. SHIN: Government offers 2190 into evidence.

13 MR. CREIZMAN: No objection.

14 MR. KLINGEMAN: No objection.

15 THE COURT: Thank you. 2190 is admitted.

16 (Government's Exhibit 2190 received in evidence)

17 MR. SHIN: May we publish that for the jury, please?

18 Ms. Grant, if you could actually turn all the way to the last
19 page of the attachment? First, if we could zoom in on the
20 title, the header at the top?

21 BY MR. SHIN:

22 Q. Mr. Hill, what time period is this document regarding?

23 A. This is between October 1st of 2014 to October 17th of
24 2014.

25 Q. And what is the title of this document?

H2NOLEB6

Hill - Direct

1 A. "ACH release log for HOPE FCU".

2 Q. Do you know what that means, "ACH release log"?

3 A. No.

4 Q. Is it fair to say it has something to do with ACH at HOPE
5 FCU?

6 A. Yes.

7 MR. SHIN: Ms. Grant, could we zoom in on the totals
8 at the bottom?

9 Q. Mr. Hill, what is the total credits in dollars that's
10 reflected here?

11 A. Total credits equal \$17,228,866.97.

12 Q. And total debits?

13 A. Total debits, \$412,097.53. Damn.

14 Q. This was only for part of the month?

15 A. Like 16 days.

16 MR. SHIN: Ms. Grant, if you could please display for
17 the witness 2192?

18 Q. Do you recognize this document?

19 A. Yes. This is an email from myself. I forwarded it to
20 myself to have the fees open up. It has an attachment on it
21 about the September fee that HOPE was charging Kapcharge to
22 transact.

23 MR. SHIN: Government offers 2192 into evidence.

24 MR. CREIZMAN: No objection.

25 MR. KLINGEMAN: No objection.

H2NOLEB6

Hill - Direct

1 THE COURT: Thank you. 2192 is admitted.

2 (Government's Exhibit 2192 received in evidence)

3 MR. SHIN: Could we please publish this for the jury,
4 Ms. Grant? Let's focus on the bottom email, Ms. Grant.

5 BY MR. SHIN:

6 Q. Mr. Hill, who was sending this document and to who was it
7 being sent?

8 A. Christine from Kapcharge was sending it to Trevon, myself,
9 and she's -- she's copied Kapcharge employees, as well as
10 Anthony Murgio.

11 Q. And the subject here is "September fees"?

12 A. September fees, correct.

13 Q. Could you please read the first line under "Hi"?

14 A. "Please find attached the fees calculation for
15 September 1st through the 29th of 2014. Total fees have been
16 calculated at \$1,613.25. Please verify the calculation for
17 both August and September so that the fees can be posted
18 accordingly. Thank you."

19 Q. Mr. Hill, do you have an understanding of what fees are
20 being discussed here in this email?

21 A. Fees that HOPE FCU was charging Kapcharge for the ACH
22 transactions.

23 Q. Do you recall from a few exhibits ago the volume, the
24 approximate volume for September that HOPE FCU processed for
25 Kapcharge?

H2NOLEB6

Hill - Direct

1 A. Not exactly the number, but I know it was millions.

2 Q. Does about 10 million seem about right?

3 A. Yes.

4 Q. So from this email, what's the total in fees that HOPE FCU
5 received for processing \$10 million of ACH transactions?

6 A. Just over \$1,600. Ha ha.

7 Q. How much were you receiving for your position on the board?
8 How much were you being paid for your position on the board?

9 A. \$417 per month.

10 Q. And each of the other board members were receiving that
11 amount?

12 A. Yes.

13 Q. How much did you earn at Coin.mx?

14 A. About \$2,000 per month.

15 MR. SHIN: Your Honor, the government would now like
16 to play another recording. This one is much shorter than the
17 prior one, about seven and a half minutes long.

18 THE COURT: Go ahead.

19 MR. SHIN: Ms. Grant, if you could queue up
20 Exhibit 2505 and the corresponding transcript 2505-T.

21 Before we start playing it, Ms. Grant, could you
22 highlight the top portion?

23 BY MR. SHIN:

24 Q. Do you recognize this transcript that's on your screen?

25 A. Yes.

H2NOLEB6

Hill - Direct

1 Q. Have you looked at this transcript previously?

2 A. Yes.

3 Q. And have you also listened to the corresponding recording?

4 A. Yes, I have.

5 MR. SHIN: Ms. Grant, why don't we play the recording
6 and follow along in the transcript.

7 (Recording played)

8 (Continued on next page)

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H2NKLEB7

Hill - direct

1 BY MR. SHIN:

2 Q. Mr. Hill, did you hear during -- or following along on the
3 transcript of that recording, did you hear or read reference to
4 a donation?

5 A. Yes.

6 Q. Just to be clear, did you have an understanding of what
7 Mr. Gross meant by donation in this conversation?

8 A. Yes.

9 Q. What was that?

10 A. Kap donating what would be the permanent deposit that
11 Alloya was asking for, which was 160,000.

12 Q. At the very beginning of your testimony, you talked about
13 how there was 150,000 to 200,000 dollars of payments that would
14 be made to Mr. Gross and his church in exchange for control of
15 the credit union?

16 A. Yes.

17 Q. Have you ever heard that being described as a donation?

18 A. Yes.

19 Q. So, just to be clear, this donation and that donation, are
20 they the same or different?

21 A. No, they're completely different.

22 Q. Thank you.

23 MR. SHIN: Ms. Grant, 2207 for the witness, please.

24 Q. Do you recognize this document?

25 A. Yes. This is an email from Trevon to our contacts at

H2NKLEB7

Hill - direct

1 Alloya and with myself attached.

2 MR. SHIN: The government offers 2207 into evidence.

3 MR. KLINGEMAN: No objection.

4 MR. CREIZMAN: No objection.

5 THE COURT: Thank you.

6 2207 is admitted.

7 (Government's Exhibit 2207 received in evidence)

8 Q. Mr. Hill, could you read the subject line and then the body
9 of the email?

10 A. Subject line is "ACH Processing." It reads: "Sandy, our
11 board has agreed to make a capital deposit. Please inform us
12 how this can be done."

13 Q. Mr. Hill, do you have an understanding of what Mr. Gross is
14 agreeing to do here?

15 A. To make the permanent deposit of 160K that Alloya requested
16 for us to process at the rate we were.

17 Q. Do you see the reference in Mr. Gross' email about the
18 board having agreed to make the capital deposit?

19 A. Yes.

20 Q. Was there a board meeting at which this was discussed?

21 A. No.

22 Q. Do you recall there being an October board meeting?

23 A. No, I don't remember, but this was done on a call with
24 myself, Anthony, and Trevon.

25 Q. So, the three of you decided to make the deposit?

H2NKLEB7

Hill - direct

1 A. Yes.

2 Q. Were any other board members involved?

3 A. No.

4 MR. SHIN: Ms. Grant, 2215, please. Just for the
5 witness, please. Thank you.

6 Q. Do you recognize this document?

7 A. Yes. This is an email from Trevon to myself about our
8 daily limit increase request -- I'm sorry, from Trevon to
9 our -- one of our third-party ACH processors, which was Magic
10 Wrighter, and I am attached.

11 MR. SHIN: The government offers 2215 into evidence.

12 MR. CREIZMAN: No objection.

13 MR. KLINGEMAN: No objection.

14 THE COURT: Thank you.

15 2215 is admitted.

16 (Government's Exhibit 2215 received in evidence)

17 MR. SHIN: Ms. Grant, could you please publish that
18 for the jury.

19 Q. You mentioned Magic Wrighter as being another entity that
20 you worked with on ACH?

21 A. Yes.

22 Q. What did Magic Wrighter do?

23 A. Magic Wrighter was able to automate the process that I was
24 doing manually, and basically they can do it a hundred times
25 faster than me. So instead of sending me an individual file

H2NKLEB7

Hill - direct

1 that I will -- instead of sending me an individual spreadsheet
2 that I will then enter the transactions manually, with Magic
3 Wrighter, you can send a batch of spreadsheets that they can
4 process just as quickly.

5 Q. Was Magic Wrighter -- were they a service provider in
6 addition to Alloya, or was it a replacement for Alloya? What
7 was the relative situation there?

8 A. In addition to Alloya.

9 Q. So HOPE FCU worked with both?

10 A. Yes.

11 Q. Could you please read what Trevon Gross wrote in this email
12 to Magic Wrighter?

13 A. "Hi, Brooke. This is my formal request to increase the
14 daily and batch risk limits" --

15 Q. Even if it's ungrammatical, you can read it.

16 A. -- "or increase to \$5 million. Thank you."

17 Q. Do you know what that means, "daily and batch risk limits"?

18 A. We want to increase our daily limit to \$5 million per day.

19 Q. And this was with respect to the ACH for Kapcharge?

20 A. Yes.

21 MR. SHIN: Ms. Grant, 2217, please, for the witness.

22 Q. Do you recognize this document?

23 A. Yes. This is an email from Trevon to myself on
24 November 4th of 2014. It has attachments about our ACH
25 transaction volume report.

H2NKLEB7

Hill - direct

1 MR. SHIN: The government offers 2217 into evidence.

2 MR. KLINGEMAN: No objection.

3 MR. CREIZMAN: No objection.

4 THE COURT: Thank you.

5 2217 is admitted.

6 (Government's Exhibit 2217 received in evidence)

7 MR. SHIN: Ms. Grant, if you could publish for the
8 jury, please.

9 Q. Mr. Hill, is Mr. Gross receiving the report in the bottom
10 email?

11 A. Yes, from the payment authority.

12 MR. SHIN: Ms. Grant, if you could turn to the
13 attachment, please. And if you could zoom in on the blue box
14 on the left.

15 Q. Mr. Hill, what was -- we saw the September number in an
16 earlier exhibit; is that correct?

17 A. Yes.

18 Q. And what's the October volume of ACH?

19 A. The October total credits? The total credit for October is
20 \$32,933,210, and the total debits for October, \$1,099,705.

21 Q. Thank you.

22 MR. SHIN: You can take that exhibit down, Ms. Grant.

23 Q. Mr. Hill, do you remember we looked at that earlier email
24 in which Mr. Gross approved an increase to \$5 million per day?

25 A. Yes.

H2NKLEB7

Hill - direct

1 Q. Do you know whether that meant business day, versus seven
2 days a week, versus five business days a week?

3 A. I don't know.

4 Q. Would you be able to approximate what a \$5 million per day
5 limit would mean in a month, if you just counted business days?

6 A. Yes. Approximately five times 25 or five times 20.

7 Q. Okay. Which is what?

8 A. At millions? 100.

9 Q. \$100 million?

10 A. \$100 million in a month.

11 Q. In a month if we just count business days?

12 A. If we just count business days.

13 MR. SHIN: 2277 for the witness, please.

14 Q. Do you recognize this document?

15 A. Yes. This is an email from Trevon to Anthony, with myself
16 attached, from November 4th of 2014 about our daily limit
17 increase request.

18 MR. SHIN: The government offers 2277 into evidence,
19 please.

20 MR. CREIZMAN: No objection.

21 MR. KLINGEMAN: No objection.

22 THE COURT: Thank you.

23 It's admitted.

24 (Government's Exhibit 2277 received in evidence)

25 Q. Mr. Hill, if you could review the email until you have a

H2NKLEB7

Hill - direct

1 sense of what this email is about. It's several pages long,
2 and we can ask Ms. Grant to page through it to the extent you
3 need more context.

4 A. Yes, I remember this.

5 Q. Generally speaking, what's this about?

6 A. This is when we found Magic Wrighter with the help from one
7 of our contacts at the FRB.

8 Q. If you look at the Anthony Murgio email there --

9 A. Uh-huh.

10 MR. SHIN: Zoom in.

11 Q. -- could you read that last paragraph of Mr. Murgio's
12 email?

13 A. From "we then"?

14 Q. Yes, "we then."

15 A. "We then got with them Monday morning and figured out this
16 solution in one day. They're setup timeline is two weeks.
17 Ricardo really helped in grinding things out, and we are back
18 up."

19 Q. Do you know what this is referring to about figuring out a
20 solution, and your helping in grinding things out, and being
21 back up?

22 MR. CREIZMAN: Objection.

23 MR. SHIN: Your Honor, I asked if he knew.

24 THE COURT: You're asking if he had an understanding?

25 MR. SHIN: Yes, your Honor.

H2NKLEB7

Hill - direct

1 THE COURT: All right, I'll allow it.

2 THE WITNESS: Yes, I did.

3 Q. And what is that understanding?

4 A. A lawyer had cut us off, and we weren't able to process, we
5 were down for a few days. So we were frantically trying to
6 find a solution to process ACH for Kap, and we found Magic
7 Wrighter and figured it out. And this is what this is about.

8 MR. SHIN: Ms. Grant, if you could zoom in on the top
9 email.

10 Q. And what is Mr. Gross' response there?

11 A. "Awesome."

12 Q. Now, you referred --

13 MR. SHIN: We can take down the exhibit, please.
14 Thank you.

15 Q. You referred to Alloya cutting you off?

16 A. Yes.

17 Q. What do you mean by that?

18 A. They weren't --

19 Q. What does cutting you off mean?

20 A. They cut us off from originating our ACH transactions.

21 Q. Just to be clear, we're talking about HOPE FCU here, right?

22 A. HOPE FCU, correct.

23 Q. Were there discussions between you and other people at HOPE
24 FCU and Alloya regarding this potential termination?

25 A. Yes.

H2NKLEB7

Hill - direct

1 Q. Who was involved in those discussions?

2 A. Myself, Anthony, Trevon, and our contacts at Alloya that
3 basically gave us a week to ten-day window to find another
4 account because they was closing ours down.

5 Q. They cut you off even though Trevon Gross had approved the
6 \$160,000 deposit?

7 A. Yes, but we didn't -- Kapcharge never made the donation of
8 our 160K. He just simply told them that we would do so, but
9 Anthony and I couldn't give a confirmation from Kapcharge to
10 say that they were going to make a permanent donation of 160K.

11 MR. SHIN: Ms. Grant, 2228 for the witness, please.

12 Q. Do you recognize this document?

13 A. Yes. This is the email from Sandra Albertson from Alloya
14 to Trevon and myself attached. This is about the termination
15 of ACH services.

16 MR. SHIN: The government offers 2228 into evidence,
17 please.

18 MR. KLINGEMAN: No objection.

19 THE COURT: Thank you.

20 2228 is admitted without objection.

21 (Government's Exhibit 2228 received in evidence)

22 MR. SHIN: If we could publish this for the jury,
23 please.

24 Q. What's being conveyed on this email?

25 A. That this is an official letter terminating all of our ACH

H2NKLEB7

Hill - direct

1 abilities with Alloya.

2 MR. SHIN: If we could flip to the attached letter,
3 please, Ms. Grant.

4 Q. Who is this letter from?

5 A. Alloya.

6 Q. And who is it addressed to?

7 A. Trevon Gross.

8 Q. If you could just generally describe what this letter is
9 saying?

10 A. This is the official letter terminating ACH origination
11 processing through Alloya. It was ending at the end of
12 October, but I mean, it gave us, I think, like seven to ten
13 days, and then we got the official letter. And that's what
14 this is.

15 Q. Okay.

16 MR. SHIN: Ms. Grant, could you please publish, for
17 the jury, Exhibit 4507, which is the WhatsApp chat Rico 101.

18 Q. Mr. Hill --

19 A. Yes.

20 Q. -- do you have this on your screen?

21 THE COURT: Did this come in before?

22 MR. SHIN: This came in at the beginning of our
23 resumption. We put all of the WhatsApp chats in, save one, at
24 the same time.

25 THE COURT: Right. Go ahead. Thank you.

H2NKLEB7

Hill - direct

1 BY MR. SHIN:

2 Q. Do you recognize this?

3 A. Yes.

4 Q. What is this?

5 A. A WhatsApp chat between myself and Anthony Murgio.

6 Q. So, just to be clear, when it's in the from column, Rico
7 101 is whom?

8 A. That's me. That's me.

9 Q. And "me" is whom?

10 A. Anthony Murgio.

11 MR. SHIN: Ms. Grant, could we scroll down to line
12 644, please.

13 Q. Now, Mr. Hill, I'm going to ask you to read -- we're just
14 going to read a few lines here, but I'm going to ask you to
15 read your chats, and I'll read Anthony Murgio's chats. So,
16 let's start with line 644, please.

17 A. "Kapcharge is now requesting Magic Wrighter to increase
18 30-day limit to 50 million. Trevon will need to approve before
19 I send request."

20 Q. "Wow, this is what that we're doing."

21 A. "What?"

22 Q. "They're doing about 1.5 million a day before, so if you
23 multiply 1.5 times 30, you get about 50 million. So it's not
24 increasing what they were doing. Is that what I'm say cut
25 off?"

H2NKLEB7

Hill - direct

1 A. "How is this not already done? I thought we raised it to
2 100 million already. Like, never mind, I'll figure it out."

3 Q. "Right, I did as well."

4 A. "Trevon would need to approve whatever it is anyway. I
5 won't be pulling the trigger just because Kap says so. Speak
6 up, please."

7 Q. "Sounds good."

8 So we'll stop there.

9 In this discussion of increasing Magic Wrighter
10 limits --

11 A. Yes.

12 Q. -- you told Mr. Murgio that Trevon will need to approve --

13 A. Correct.

14 Q. -- whatever it is anyway; is that correct?

15 A. Yes.

16 Q. And that you wouldn't be pulling the trigger?

17 A. Right.

18 Q. Why is it that you needed Trevon to approve?

19 A. I will always go to Trevon first before I do anything. I
20 mean, there was an instance where I made a request on my own,
21 and Trevon chewed me out because I raised the limits without
22 asking him first, without getting him to approve it first, and
23 it was a request from Kapcharge, and I sent the request to
24 Magic Wrighter, and once Trevon found out, he chewed me out,
25 telling me I need to always run it past him.

H2NKLEB7

Hill - direct

1 Q. So you followed that instruction?

2 A. Yes.

3 MR. SHIN: Ms. Grant, if you could put up Government
4 Exhibit 4502, which is the HOPE CU WhatsApp chat. And if you
5 could publish that for the jury as well.

6 Ms. Grant, if you could scroll down to line 3332.

7 Q. Starting there, Mr. Hill, let's just -- I would propose
8 that we just take turns reading, just so we can get through
9 this, because there are multiple participants in this chat.
10 I'll start, and then we'll just take turns, okay?

11 A. Okay.

12 Q. So Trevon Gross writes: "To all: Please be advised that
13 as of this morning, the CU has ceased to be able to function as
14 a financial institution. Because of overly aggressive
15 decisions made over the past three months, our correspondent
16 bank terminated our settlement ability. This was completely
17 avoidable. Traveling to New Jersey is a waste of time and
18 money because unless we can get a correspondent bank, we can't
19 function. I have been making calls all day trying to get
20 someone to take us on, but word has spread that we are risky.
21 You should know this because we, as board members, are liable
22 for these decisions."

23 A. "What was voted on? What was voted on as a board that
24 invited risk?"

25 MR. SHIN: Just for the record, that was Tim Ellrich.

H2NKLEB7

Hill - direct

1 Q. So, going forward, Mr. Hill, if you could define the
2 person.

3 A. Say so.

4 Q. So then Kevin Tomasso writes: "This is obviously very
5 serious, and I am sure the main officers will be scrambling
6 today, but can we figure out a forum or meeting where we can
7 discuss the implications of this?"

8 A. Rico replies: "Trevon, we were under the impression that
9 we were operating within our parameters. We know Alloya had
10 issues with certain merchants, which we provided all
11 documentation to negate any suspicion." As following an
12 aggressive -- "As far as an aggressive approach, we" waited --
13 "we awaited the go-ahead to open the floodgates."

14 Q. Trevon Gross writes: "The board made no decisions, but
15 allowed this to happen. I'd like to, because this is serious,
16 if a member has a car payment that comes through, it will be
17 returned. Who would trust a bank after something like this
18 happens?"

19 And, Mr. Hill, I'll read the next one as well just
20 because it's the same person.

21 Trevon Gross: "Ricardo, the current approach was
22 risky, and this flag was raised and ignored. It was the volume
23 and the capitalization. In October, we had over \$30 million
24 pass through the CU with no buffer or capitalization."

25 A. Rico: "Yes, I see. Can you please get on the call and get

H2NKLEB7

Hill - direct

1 updated about moving forward, or what's next, or email a
2 recap?"

3 Q. Just pausing there, Mr. Hill, do you see in line 3363 --

4 A. Yes.

5 Q. -- do you see that Mr. Gross wrote, "The board made no
6 decisions, but allowed this to happen"?

7 A. Yes.

8 Q. Did Trevon Gross raise concerns about ACH transaction
9 volume during board meetings?

10 A. Not during board meetings.

11 Q. He raised them outside of the context of board meetings?

12 A. Yes.

13 Q. In discussions with you?

14 A. Yes.

15 Q. And with who else?

16 A. And Anthony.

17 Q. Was Anthony Murgio on the board?

18 A. No.

19 Q. So during proper board meetings of the HOPE FCU board of
20 directors, did Mr. Gross raise these concerns?

21 A. No.

22 MR. SHIN: Can we scroll down, Ms. Grant. So let's
23 pick up on 3375.

24 Q. I'll pick up there.

25 Mr. Murgio writes: "But we did discuss this, and

H2NKLEB7

Hill - direct

1 under guidance, were told that all is fine as long as our
2 capitalization was brought in line by the end of the quarter.
3 I wrote an email saying I don't think we should wait for the
4 donation, and we should get it ASAP. I was told it's not
5 urgent. Please confirm."

6 Mr. Murgio continues: "These things don't sit well
7 with me. I was also told to tell Kap to stop until we get with
8 the Fed. I did that as well."

9 Mr. Murgio continues: "Please confirm."

10 And Mr. Hill?

11 A. Trevon replies: "Capitalization is an internal matter that
12 we need to be concerned about. Alloya's issue and Magic
13 Wrighter was the amount of transactions, which I have
14 consistently said were risky. You can't go from 30K in ACH to
15 30 million in one month without raising red flags. Red flags
16 are waving all through the industry. You told Kapcharge too
17 late. Our ACH processing ability was terminated when you
18 finally told them. Now our settlement ability has been
19 stopped."

20 Q. So pausing there, Mr. Hill, do you recall -- in that chat
21 by Mr. Gross, there is a reference of going from 30K to
22 30 million?

23 A. Yes.

24 Q. Do you recall the earlier email we saw in which Mr. Gross
25 approved the \$5 million a day limit?

H2NKLEB7

Hill - direct

1 A. Yes.

2 Q. And we did some rough math. Approximately what did that
3 correspond to per month?

4 A. A hundred million.

5 Q. So, continuing at 3384, Anthony Murgio writes: "Right.
6 But did you tell Kap everything was fine after Alloya pulled
7 their stunt, and that we can use our account there and Magic
8 Wrighter to transmit?"

9 A. Rico: "This and our point to the above comment is what I
10 was sure we were comfortable doing."

11 Q. Mr. Gross writes: "Anthony, you know I have consistently
12 told you this was too aggressive. I have the documentation to
13 prove it. You plowed ahead, and we here we are. CU reputation
14 is damaged, and I am scrambling to get the CU functioning."

15 A. Anthony Murgio replies: "Okay."

16 And, again, Anthony Murgio: "See you in a bit."

17 Q. Jose Freundt writes: "It is not constructive or productive
18 to start playing the blame game. What needs to happen in the
19 short-term is find a solution to the issue at hand, and in the
20 long-term, find a way to do what's best for the credit union
21 and all parties involved. If we have people in place in
22 certain positions, let them form their position."

23 A. Rico replies: "Agreed."

24 Q. Jose Freundt writes: "And, personally speaking, unless we
25 find a way to have unified criteria on how things are to be

H2NKLEB7

Hill - direct

1 done, the direction of the CU and processing procedures, we
2 will not succeed"?

3 A. Trevon replies: "Accountability is not blame. A problem
4 cannot be corrected until the root is uncovered. The only
5 party involved is the CU. This has to be agreed upon before
6 anything else is done."

7 Q. Jose Freundt writes: "I agree with that statement, but I
8 don't think looking for the accountable party will lead to
9 solving the immediate issue. Let's find how to resolve this
10 and use this incident as a tool for learning and not as a tool
11 for dividing. Let's use this as an example of what will happen
12 if we don't share one common goal and path."

13 A. Trevon replies: "Agreed."

14 Q. Tim Ellrich writes: "So how were we getting this increase
15 of transactions? Maybe this was discussed as a board while
16 during meeting that I was absent, but how did we add two zeros
17 to our transactions? How do these red flags get fixed?"

18 A. Trevon replies: "We have regained our ability to settle
19 transactions. Red flags are overcome by being squeaky clean
20 and above reproach."

21 Q. Anthony Murgio writes: "Squeaky misspelled. Thanks."

22 A. Jose: "Great news."

23 Q. Ellrich writes -- Tim Ellrich continues: "Still I'm
24 confused how one day we have a code-red shutdown that escalates
25 to top of liability, and the next day, all is well. I don't

H2NKLEB7

Hill - direct

1 want to be on the bench if I'm liable for anything. I'm sure
2 the rest of the board agrees. Beyond that, it looks like
3 you've been busy rebuilding trust with the Fed. Thank you for
4 that. So, we are still on this weekend, I assume? I look
5 forward to discussing in person what squeaky clean looks like
6 in the eyes of the Fed. I look forward to in-depth dialogue
7 this weekend."

8 A. Jose Freundt: "My flight is booked."

9 Q. Trevon Gross writes: "I did not say all was well, I said
10 that the ability to actually conduct business and settle member
11 transactions has been restored. There's a whole bunch that
12 still needs to be done to clear the red flags. Prolonged red
13 flags means liability. As I said earlier, I'm not available
14 this Saturday, so I will not be involved in any discussions."

15 A. Tim Ellrich: "Okay. When is your next availability? I
16 would like to see if we can find a weekend after this meeting
17 that works mutually."

18 Q. Kevin Tomasso writes: "Are we restored with Alloya, or did
19 another bank pick us up?"

20 A. Anthony Murgio: "Another. Another."

21 Anthony Murgio: "Trevon was able to get a credit
22 union of the Northwest to settle for us."

23 Q. Kevin Tomasso: "Wonderful."

24 A. Yuri: "Thank you, Pastor."

25 Q. Let's stop that there.

H2NKLEB7

Hill - direct

1 MR. SHIN: And we can take that down, please,
2 Ms. Grant.

3 Q. Mr. Hill, while you were involved with HOPE FCU, did Trevon
4 Gross ever tell you to stop processing ACH transactions for
5 Kapcharge?

6 A. No.

7 Q. Did he ever actually take any action to stop you from
8 processing ACH transactions for Kapcharge?

9 A. No.

10 Q. Did he have the ability to stop you from processing ACH for
11 Kapcharge?

12 A. Absolutely.

13 Q. And what was that ability?

14 A. He had the master log-in, he can close any account. He can
15 lock out any back-end user. So, yes, he had the power to do
16 so.

17 Q. Mr. Hill, you worked at HOPE FCU for a number of months?

18 A. Yes.

19 Q. We've heard about a lot of what you did there.

20 In your view, based on your experience and your
21 working with people, who was in charge of the credit union?

22 A. I answered to Murgio, he was my boss. However, Trevon had
23 the master password and master access, so he had control of the
24 credit union.

25 Q. So let's just break that down. You said you answered to

H2NKLEB7

Hill - direct

1 Anthony Murgio?

2 A. Yes.

3 Q. And what do you mean by that?

4 A. If there was a request from Anthony and one from Trevon, I
5 would do what Anthony said first.

6 Q. Now, did Anthony Murgio have access to the HOPE Credit
7 Union back-end system?

8 A. No.

9 Q. Was he a board member?

10 A. No.

11 Q. Or any kind of officer of the credit union?

12 A. No.

13 Q. Was he actually on-site at the credit union?

14 A. No.

15 Q. Either in New Jersey or in Tallahassee?

16 A. Only when he visited our office, but he wasn't there in
17 Tallahassee, Florida, and not in New Jersey either.

18 Q. Did you work more frequently with Mr. Gross or Mr. Murgio
19 in connection with your activities at HOPE FCU?

20 A. With Trevon.

21 Q. Is it fair to say that Mr. Gross supervised your
22 activities?

23 A. Yes.

24 Q. In fact, we've seen some examples of this during your
25 testimony; is that correct?

H2NKLEB7

Hill - direct

1 A. Yes.

2 Q. So, ultimately, as between Mr. Gross and Mr. Murgio, who
3 had the actual ability to stop what was going on?

4 A. Only Trevon.

5 Q. Mr. Hill, were you aware, during your work at HOPE FCU, of
6 examinations by the National Credit Union Administration, also
7 known as the NCUA?

8 A. Yes.

9 Q. Now, were you involved in any NCUA examinations?

10 A. Yes, I was.

11 MR. SHIN: Ms. Grant, Government Exhibit 2266 for the
12 witness, please.

13 Q. Do you recognize this?

14 A. Yes. This is me replying to Anthony about a trip to
15 New Jersey slated for September. The email is from
16 August 29th.

17 MR. SHIN: The government offers 2266 into evidence.

18 MR. KLINGEMAN: No objection.

19 MR. CREIZMAN: No objection.

20 THE COURT: Thank you.

21 It's admitted.

22 (Government's Exhibit 2266 received in evidence)

23 MR. SHIN: If we could zoom in, Ms. Grant.

24 Q. If you could read the body of Anthony Murgio's email.

25 A. "Can you go up to New Jersey around the 8th or 9th to be

H2NKLEB7

Hill - direct

1 there for the inspection on the 10th? I also want you to make
2 sure shit is on point."

3 Q. "And you agreed?"

4 A. "Sure. Would love to."

5 Q. And so just to be clear, this is an inspection by the NCUA?

6 A. Yes.

7 Q. And the date here is August 29th, correct?

8 A. That's correct.

9 Q. So, when was the inspection slated to happen?

10 A. September 10th or 11th, but I was going up there a couple
11 of days prior to it.

12 MR. SHIN: Ms. Grant, you can take down the exhibit,
13 please.

14 Q. Did you actually go up to New Jersey for this examination?

15 A. Yes, I did.

16 Q. And what did you do there?

17 A. I went up maybe a day or two prior to the examiners coming
18 in. I helped get our files together, meaning the new board
19 members' files, to make sure everyone had a complete folder,
20 with their resume, copy of their ID, and membership
21 application, and I also helped gather other documents that was
22 needed that Trevon instructed us to do.

23 Q. When you were up there helping to prepare for the
24 examination, who else were you working with?

25 A. Trevon Gross. And while Trevon was there, and Anthony was

H2NKLEB7

Hill - direct

1 on the phone.

2 Q. Anthony Murgio?

3 A. Yes.

4 Q. What was he doing on the phone?

5 A. Helping me gather different documents or getting others to
6 fill out necessary paperwork that they hadn't done before.

7 Q. Was anyone else involved in this preparation process from
8 HOPE FCU?

9 A. Yes. I think Bernard was there, but he was doing his
10 portion.

11 Q. Who's Bernard?

12 A. He's one of the original board members at HOPE FCU.

13 Q. Now, you described the work that you were doing -- I
14 apologize. Did you give any examples of what you were helping
15 to organize?

16 A. Yes. The files for the new board members.

17 MR. SHIN: Ms. Grant, could you display 1252-A for the
18 witness.

19 Q. Do you recognize this document?

20 A. Yes. This is an email from Anthony to all of us, meaning
21 Kim -- Kim -- Tim, Kevin, Kendra, Jose, Yuri, myself, Chad,
22 Kevin.

23 MR. SHIN: The government offers 1252-A into evidence.

24 MR. CREIZMAN: No objection.

25 MR. KLINGEMAN: No objection.

H2NKLEB7

Hill - direct

1 THE COURT: Thank you.

2 It's admitted.

3 (Government's Exhibit 1252-A received in evidence)

4 MR. SHIN: If you could publish for the jury.

5 BY MR. SHIN:

6 Q. What is Anthony conveying to you and the others in this
7 email?

8 A. That -- this is a list of people who are missing some
9 documents and maybe a picture ID or a signed form -- a signed
10 membership agreement, but he says, "I don't know what is going
11 on with the organization over there. Rico will be taking
12 over," but the following people needed either a clean picture
13 of their ID or their membership application signed.

14 Q. So, is this the time when you were up in New Jersey
15 handling that?

16 A. Yes.

17 Q. By the way -- you testified to, and I believe we saw some
18 documents -- back when you were about to be placed on the
19 board --

20 A. Yes.

21 Q. -- weren't you sending these same documents in?

22 A. Yeah.

23 Q. So why were you doing it again?

24 A. I don't know. All of us should have done this in June. I
25 don't know why -- when I got there, I couldn't find the ones

H2NKLEB7

Hill - direct

1 for these members, the following: Kendra, Jose, Yuri, and
2 Kevin.

3 MR. SHIN: Ms. Grant, 2268 for the witness, please.

4 Q. Do you recognize this document?

5 A. Yes. This is an email forwarded to me from Anthony. It
6 has an attachment. It's a membership package from one of the
7 board members. I think this is from Yuri.

8 MR. SHIN: The government offers 2268 into evidence.

9 MR. CREIZMAN: No objection.

10 MR. KLINGEMAN: No objection.

11 THE COURT: Thank you.

12 It's admitted.

13 (Government's Exhibit 2268 received in evidence)

14 MR. SHIN: If we could look at the attachment, please.

15 Q. What's that document?

16 A. It's the HOPE membership application.

17 Q. Who is it completed by?

18 A. Yuri Lebedev.

19 Q. So was this in connection with your preparing the files for
20 the NCUA examination?

21 A. Yes.

22 MR. SHIN: Ms. Grant, you can take that down, please.

23 Q. In September, when you were there for the NCUA exam, did
24 you actually meet with anyone from the NCUA?

25 A. Yes. I was there when the examiners showed up.

H2NKLEB7

Hill - direct

1 Q. Do you remember who you met with from the NCUA?

2 A. Yes, I remember. I don't know their full names, but I
3 remember them.

4 Q. What do you remember? What names do you remember?

5 A. Two guys, one named Keith, the other named Mark.

6 Q. Who was present from the HOPE FCU side during this meeting
7 with the NCUA?

8 A. Trevon and Bernard.

9 Q. In addition to you?

10 A. And myself, yes.

11 Q. Now, during the examination, during the meeting between
12 HOPE FCU and the NCUA, were the new board members that had been
13 elected in June discussed?

14 A. Yes, briefly.

15 Q. What, if anything, did Trevon Gross say to the NCUA
16 examiners about the new board members?

17 A. Well, I was introduced as a new board member, and Trevon
18 let them know that I was one of the board members that would be
19 moving to New Jersey soon.

20 Q. So he identified you as someone who would be moving to
21 New Jersey?

22 A. Yes.

23 Q. Any other board members -- did Mr. Gross identify any other
24 board members as moving to New Jersey?

25 A. Yes. Tim and Jose.

H2NKLEB7

Hill - direct

1 Q. Could you give the full names for those two people?

2 A. Oh, sorry. Jose Freundt and Tim Ellrich.

3 Q. Mr. Hill, were you, in fact, planning to move to Lakewood,
4 New Jersey?

5 A. No.

6 Q. Did you have any desire to move to Lakewood, New Jersey?

7 A. No.

8 Q. Why not?

9 A. I'm from Florida. Why would I leave Florida?

10 Q. Fair enough.

11 Mr. Hill, did you tell Trevon Gross that you were, in
12 fact, planning to move to New Jersey?

13 A. No.

14 MR. SHIN: Ms. Grant, if you could put up 1249 for the
15 witness, please.

16 THE COURT: Just while doing that, we have about 12
17 minutes to go, so I'll invite everybody for our last stretch.

18 (Pause)

19 THE COURT: All right. Thank you.

20 Q. Mr. Hill, do you recognize this document?

21 A. Yes. This is an email from myself to Anthony Murgio.

22 MR. SHIN: The government offers 1249 into evidence,
23 please.

24 MR. KLINGEMAN: No objection.

25 THE COURT: Without objection, 1249 is admitted.

H2NKLEB7

Hill - direct

1 Thank you.

2 (Government's Exhibit 1249 received in evidence)

3 MR. SHIN: May this be published for the jury, please.

4 BY MR. SHIN:

5 Q. This email is from you to Anthony Murgio, September 9th,

6 "Subject: Items they will need for the review." What is this,

7 Mr. Hill?

8 A. This is a list of items that we needed to gather for the

9 NCUA.

10 Q. For purposes of the examination?

11 A. Yes.

12 MR. SHIN: Ms. Grant, if you could show 2267, for the
13 witness.

14 Q. Do you recognize this document?

15 A. Yes. This is an email from myself to Anthony Murgio, with
16 an attachment.

17 MR. SHIN: The government offers 2267 into evidence.

18 MR. KLINGEMAN: No objection.

19 MR. CREIZMAN: No objection.

20 THE COURT: Thank you. It's admitted.

21 (Government's Exhibit 2267 received in evidence)

22 MR. SHIN: Could you please publish the email for the
23 jury, Ms. Grant.

24 Q. The subject line here is "Certified Reso in PDF," correct?

25 A. Yes.

H2NKLEB7

Hill - direct

1 Q. And the attachment is Certified Resolution.pdf?

2 A. Yes.

3 MR. SHIN: Ms. Grant, could you turn to the
4 attachment, please.

5 Q. Mr. Hill, if I could direct your attention immediately
6 above the -- below the "resolved."

7 A. Yes.

8 Q. Do you see the line there that begins, "Governor"?

9 A. I do.

10 Q. Could you just list the entities that are listed there?

11 A. Governor, The Connecticut Department of Public Works, the
12 Connecticut State Properties Review Board, and the Office Of
13 Attorney General -- of the Attorney General Associated With
14 Such Contracts And Amendments.

15 Q. Mr. Hill, what is this?

16 A. This is a certified resolution, but this is a template of a
17 certified resolution that we were going to use after rewording
18 it, of course.

19 Q. Just if you could elaborate a little further, Mr. Hill, why
20 were you sending this document to Mr. Murgio?

21 A. Trevon let us know that we needed a certified resolution,
22 and it was up to me to get one. I didn't know how to write
23 one, so I went on Google to find a template. I found this,
24 sent it to Anthony to see if this is something that can be
25 edited to fit what we needed.

H2NKLEB7

Hill - direct

1 Q. You said Mr. Gross told you that you needed a certified
2 resolution?

3 A. Yes.

4 Q. The certified resolution for what?

5 A. A certified resolution gives signing authority to one board
6 member, and we didn't have one on file and we needed one on
7 file for the NCUA.

8 Q. So you found this document on the Internet?

9 A. Yes.

10 MR. SHIN: Ms. Grant, could you put up for the witness
11 2269.

12 Q. Do you recognize this document?

13 A. Yes. It's an email from myself to Anthony on
14 September 9th.

15 MR. SHIN: The government offers 2269 into evidence.

16 MR. CREIZMAN: No objection.

17 MR. KLINGEMAN: No objection.

18 THE COURT: Thank you. It's admitted.

19 (Government's Exhibit 2269 received in evidence)

20 MR. SHIN: Ms. Grant, if you could publish it for the
21 jury, please.

22 Q. Mr. Hill, the subject here is still "Certified Reso In
23 PDF," correct?

24 A. Yes.

25 Q. That's the email we just saw?

H2NKLEB7

Hill - direct

1 A. Right.

2 Q. So what is Mr. Murgio's response to you?

3 A. He says, "Good."

4 Q. And then?

5 A. "Okay, cool. Pass it on to Trevon for final touches."

6 Q. What did you do after sending this email to Mr. Murgio?

7 A. Sent it to Trevon so he can edit it.

8 Q. Sorry, you sent what to Trevon?

9 A. I sent the template of the certified resolution to Trevon
10 so he can make it fit for what we needed, by editing it.

11 MR. SHIN: Ms. Grant, if you could put up 2613,
12 please.

13 Q. Do you recognize this document?

14 A. Yes. This is the edited version of the certified
15 resolution template that I found.

16 MR. SHIN: The government offers 2613 into evidence.

17 MR. CREIZMAN: No objection.

18 MR. KLINGEMAN: No objection.

19 THE COURT: Thank you. It is admitted.

20 (Government's Exhibit 2613 received in evidence)

21 MR. SHIN: Could you please publish that for the jury,
22 Ms. Grant.

23 Q. Now that the jury has the benefit of having it on the
24 screen, what is this document?

25 A. This is the edited version of the certified resolution,

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Hill - direct

1 from the template that I started with.

2 Q. So, is that HOPE FCU's letterhead on the stop?

3 A. Yes.

4 Q. And who created or edited this document from the template
5 that you had found?

6 A. Trevon.

7 Q. Mr. Hill, could you read -- this might be somewhat awkward
8 because of the blanks but please do your best -- could you read
9 starting with "I"?

10 A. Okay. "I, secretary of...a corporation organized and
11 existing under the laws of the State of...do hereby certify
12 that the following is a true and correct copy of a resolution
13 duly adopted at a meeting of the board of directors of the
14 company duly held and convened on" blank date, blank year "at
15 which meeting a duly constituted quorum of the board of
16 directors was present and acting throughout, and that such
17 resolution has not been modified, rescinded or revoked, and is
18 at present in full force and effect."

19 MR. SHIN: Ms. Grant, if you could zoom down into the
20 remainder of the document.

21 Q. And if you could please continue, Mr. Hill.

22 A. "Resolved that," blank name and title, "of" blank
23 corporation "is empowered and authorized on behalf of the
24 company, open/closed as necessary depositor accounts and
25 execute all financial transactions."

H2NKLEB7

Hill - direct

1 MR. SHIN: Ms. Grant, if you could show the very
2 bottom of the signature block.

3 Q. So there's a space there?

4 A. Yes.

5 Q. Sorry, Mr. Hill, who was supposed to sign this document?

6 A. I was.

7 Q. Is that because you were the secretary of the board?

8 A. Yes.

9 MR. SHIN: You can zoom out, please, Ms. Grant.

10 Q. So after this document was prepared, what was done with it?
11 After this blank edited document on HOPE FCU letterhead was
12 prepared, what was done with it?

13 A. It was filled out and signed by myself.

14 Q. Did you do that at anyone's direction?

15 A. Yes. Trevon and Anthony.

16 Q. Did you, Mr. Gross, and others actually convene a board
17 meeting for this to be signed and resolved?

18 A. No. We did it on the fly because we needed it.

19 Q. Who was present when you did that?

20 A. Me and Trevon, with Anthony on the phone.

21 Q. So, after you signed this document, what was done with the
22 signed document?

23 A. It was put in the folder as where our certified resolutions
24 should have been kept.

25 Q. When you say it was put in the folder --

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Hill - direct

1 A. A folder that was prepared for the NCUA examiners.

2 Q. So, is it fair to say it was put into HOPE FCU's files?

3 A. Yes.

4 Q. And those files were available to the examiners who were
5 conducting their examination?

6 A. Yes.

7 Q. Mr. Hill, just to be clear, what was the purpose of this
8 document?

9 A. The purpose of the certified resolution? To give one board
10 member signing authority.

11 Q. On behalf of the credit union?

12 A. On behalf of the credit union board of directors.

13 Q. And that one person was whom?

14 A. Myself.

15 Q. So, this gave you signing authority?

16 A. Yes.

17 THE COURT: All right, Mr. Shin, it's two minutes
18 before 5:00, so we'll stop there for the day.

19 Members of the jury, just to turn to the schedule
20 issue that I touched on -- gosh, I can't remember if that was
21 yesterday or this morning -- I know that one of the appointment
22 issues resolved, so, as of now, I think our only expected
23 alteration to the schedule that I've given you is that on
24 Wednesday of next week we'll end ten minutes early so someone
25 can make an appointment, and we'll try to make up the time at

H2NKLEB7

Hill - direct

1 lunch. We'll just shave about ten minutes off lunch, to do
2 that.

3 Otherwise, I wish you a very good night. And I will
4 see you in the morning at 9:30. Please keep all my
5 instructions in mind. Have a good night. Thank you.

6 (Continued on next page)
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H2NKLEB7

Hill - direct

1 (Jury not present)

2 THE COURT: Mr. Hill, you may step down. Thank you.

3 (Witness temporarily excused)

4 THE COURT: Everyone may be seated.

5 Matters to take up, Counsel?

6 MS. CHOI: Your Honor, I think just to give the Court
7 and defense counsel a heads-up, the next few witnesses that we
8 had lined up were two individuals from Alloya, Michelle
9 McDowell and Neil Kumar. Obviously, I think none of us
10 anticipated that Rico Hill would last as long as he did, and we
11 haven't even gotten to sort of the meat of that sort of end
12 part of his testimony, nor to the cross.

13 We are going to go talk to them and figure out what
14 their schedules are like and whether or not they have a
15 preference to go tomorrow and interrupt the direct of Ricardo
16 Hill -- they're out-of-town witnesses -- if defense counsel has
17 no objection to that, but we'll know that later tonight.

18 So I think that's the next sort of sequence of
19 individuals and then, after that, we anticipate calling Jose
20 Freundt as the next government witness.

21 THE COURT: Any concerns, Counsel?

22 MR. CREIZMAN: All I know is that I just have to run
23 out to see Judge Engelmayer and argue something in his court.

24 THE COURT: Now?

25 MR. CREIZMAN: What's that? No, I think it's either

H2NKLEB7

Hill - direct

1 between 3:30 and 4:30 or -- it's at 4:00, it's at 4:00. I
2 don't want to miss that. During Judge Rakoff's trial, a couple
3 weeks ago, I accidentally stood Judge Engelmayer up for an
4 in camera hearing, and he issued a bench warrant. So I think I
5 I'll be there --

6 THE COURT: I concur.

7 You being away, do you then have -- a serious
8 question -- do you have any concerns with taking witnesses out
9 of order?

10 MR. CREIZMAN: The only concern that I have is that I
11 am set to cross-examine Mr. Hill, and Ms. Madrigal is set to
12 cross-examine the Alloya witnesses.

13 THE COURT: So it sounds like it's --

14 MR. CREIZMAN: It could be a problem.

15 THE COURT: -- an issue.

16 MS. CHOI: Well, I think --

17 THE COURT: Sounds like we have to finish Hill.

18 MR. KLINGEMAN: Maybe if we had a sense of what's left
19 with Hill on direct, we could plan around this.

20 MR. SHIN: Your Honor, I don't have much left on this
21 topic, of dealings with the NCUA, and then the immediate next
22 topic is the final meeting. There will be some other documents
23 around that meeting, but the bulk of that is going to be the
24 playing of the audio. And then after that topic, there's going
25 to be some short testimony regarding the eCommerce PMA, which

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Hill - direct

1 was the subject of some motions in limine, and your Honor
2 permitted that evidence.

3 So that's what's remaining, just so that I don't
4 disappoint your Honor again.

5 THE COURT: It's too late.

6 MR. SHIN: That's why I said again, that's why I said
7 again, your Honor.

8 I would say maybe there is an hour and a half to two
9 hours left tomorrow, including the hour recording.

10 MR. KLINGEMAN: Do we know how long the Alloya folks
11 are going to be on direct?

12 MS. CHOI: I think they would be medium witnesses, so
13 I would say about Clayton Curry length. So it seems to me
14 that, given that circumstance. Because if we were to put them
15 on before Mr. Hill, there is a possibility that Mr. Creizman
16 would miss some portion of the Hill cross, I think we're going
17 to have to put them on after Mr. Hill has been crossed. I just
18 need to double-check with their schedules. I think that would
19 probably be fine, although they may be disappointed; c'est la
20 vie. So we'll work with defense counsel and make sure that we
21 can sort that out.

22 But, yes, I think that both of them will be about
23 Clayton Curry -- one will be maybe Clayton Curry level and the
24 other may be a little less than Clayton Curry. Not height;
25 length. That sounded really wrong. I meant length of time as

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1 opposed to how tall he was. I was trying to be funny but it
2 didn't work.

3 MS. SANTILLO: Speaking of Clayton Curry and the
4 Alloya people, we have a similar expert issue that was raised
5 in both the Magic Wrighter and in some documents that I flagged
6 that we object to with respect to the Alloya production. There
7 are some very summary documents that were created by the people
8 at Alloya who were kind of analyzing the business of HOPE
9 Credit Union, and we believe that all those are hearsay and,
10 also, these people weren't qualified as experts, and so we have
11 objections. And I have listed all of the exhibits that we have
12 objections to. It's 723A, 723B, 724, 724-1, 724-2 and 725.

13 THE COURT: And these are documents prepared by folks
14 other than the Alloya witnesses?

15 MS. SANTILLO: Well, some of them are -- I don't know.
16 They are summary documents and it's not clear exactly who the
17 author is. But they also are incorporating various sources.

18 MS. CHOI: Your Honor, Ms. Santillo gave us this
19 list -- I'm just saying, we're going to talk about it, I think
20 we can resolve some of these. I'm not complaining about the
21 timing. I just mean, we haven't had an ability to talk to you
22 about the list -- you've given us the list, we're going to talk
23 about it -- but I think there is one thing that I want to make
24 clear for the Court, which is: My understanding of a lot of
25 your Honor's rulings with regard to the NCUA and the original

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1 NCUA documents coming in are the prejudice to the defendants
2 because of the nature of the charges involving obstruction of
3 an examination and the imprimatur that the NCUA's name on these
4 documents may lend to certain of these conclusions.

5 I think the distinction here is: Alloya serves as the
6 corporate credit union for HOPE. They had reasons, that we
7 need to get into, for why they decided, I think validly, that
8 the type of transactions that HOPE was engaging in, both as to
9 process and to the volume size, were causing problems for
10 Alloya to function, ultimately led to the conclusion that they
11 could no longer function, no longer function as the settling
12 institution for HOPE.

13 A lot of these documents are actually prepared by the
14 two witnesses that we're going to call, so we do not have the
15 cross-examination concern that Ms. Santillo had raised
16 previously, but I think it's fair game for someone who, as
17 their job, for example, makes sure that they manage risk at
18 Alloya, to say, I did research, given the files that we had,
19 what we saw coming in as the corporate credit union for HOPE
20 FCU, the types of transactions, the volume of transactions, and
21 when we went to follow up with HOPE FCU about who these people
22 were or who these entities were for which they were doing these
23 transactions, we didn't have comfort with the answers that we
24 were given because they didn't comport with what we understood
25 to be true and what we had determined to be true, given what

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1 we, as Alloya individuals and as people who run the corporate
2 credit union, could see from their own records.

3 So, as background, a lot of these documents, even if
4 Ms. Santillo claims that they're hearsay, were (a) created by
5 these particular individuals at issue; (b) can be certified as
6 business records because they're records that were kept in the
7 ordinary course of Alloya making these business decisions and
8 contain conclusions and the rationales reached for those
9 particular decisions; and (c) I think it would be highly
10 prejudicial if the Court were to exclude our ability to ask
11 Alloya witnesses based on what they did in their
12 day-in-and-day-out jobs in Alloya to manage their own risk and
13 to deal with their own businesses, any conclusions they reached
14 about the nature of how HOPE was operating, since HOPE had to
15 use Alloya in order to do these ACH transactions.

16 THE COURT: Maybe I'm confused. It seems to me that
17 you've not addressed what was the basis for the objection.

18 MS. CHOI: Which is that it's expert?

19 THE COURT: Yes.

20 MS. CHOI: They're percipient witnesses. They are
21 explaining their opinions and the conclusions that Alloya
22 reached based on their observations at Alloya. I don't think
23 that they have specialized knowledge in the traditional sense
24 of an expert, because these were things that they saw at the
25 time and they were making those determinations.

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1 Now, I don't know what the alternative would be. I
2 suppose that we could go through the process of having some
3 sort of Daubert test of them, but I think, given that they've
4 had the 3500 on these people for months, we have marked these
5 exhibits and told them that this is the type of --

6 THE COURT: You're confusing me. Now you're
7 addressing the issue and now there's a 701 objection that's
8 been made and I need to hear the specifics. I think, as you
9 describe it, as you started describing the anticipated
10 testimony, assuming a sufficient foundation can be laid,
11 et cetera, what you described sounded fine.

12 I'm not prejudging -- the objection still may be
13 available -- but you described testimony that was different
14 than the objection which went to some specific documents, which
15 Ms. Santillo said she wasn't sure whether or not these
16 individuals created them or not, and that they drew on
17 information from other sources and the like. So there could be
18 an issue with respect to those documents.

19 But then just with respect to the testimony, you
20 switched gears to say, well, we could go through a
21 qualification process --

22 MS. CHOI: I don't think it's necessary.

23 THE COURT: You haven't offered them.

24 MS. CHOI: No.

25 THE COURT: You haven't offered it as expert

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1 testimony?

2 MS. CHOI: No.

3 THE COURT: You're saying it doesn't rely on?

4 MS. CHOI: No.

5 THE COURT: It's within Rule 701. You have United
6 States versus Garcia in mind, you have Bank of China in mind,
7 the Second Circuit cases --

8 MS. CHOI: Yes.

9 THE COURT: -- that I have in mind when I think about
10 where the line is?

11 So I'm not sure it helps to shift gears at this point
12 and say, we could go though --

13 MS. CHOI: Right, no, let's not do that. Withdrawn,
14 your Honor. I think there are two separate questions, then.

15 One is whether or not a proper foundation can be laid
16 for these particular documents for which defense counsel has
17 objected. We may just decide not to offer some of them. But I
18 think, for the ones that we do offer, so long as we can
19 establish that they were valid business records that were made
20 at the time, by people who were knowledgeable about the
21 information and were kept in the ordinary course of Alloya's
22 business --

23 THE COURT: That sounds like that would potentially
24 resolve a hearsay problem.

25 MS. CHOI: Correct, your Honor. That's what I'm

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1 thinking.

2 THE COURT: It doesn't necessarily mean it would
3 resolve a 701 objection.

4 MS. CHOI: Well, yes. And I think the 701 objection,
5 again, I don't expect them to start opining writ large about
6 the Bank Secrecy Act except to give general background about
7 what OFAC is, what BSA is and how it relates to their jobs at
8 Alloya. They will opine -- not opine but give statements about
9 what Alloya's position was when Mr. Gross made representations
10 about the nature of these transactions and why they did not
11 ultimately decide that it was safe and sound for Alloya or,
12 from their perspective, from their business perspective, to
13 allow for these transactions to continue.

14 So it gives background to that November 11th letter
15 that has now been received into evidence, that shows that
16 Alloya stopped doing this. But I don't think that any of those
17 opinions really cross the line between 701 to 702.

18 MS. SANTILLO: Your Honor, just to be clear, I have a
19 strong objection also to the qualification of these as business
20 records, particularly in light of the way the government talks
21 about it. This isn't a usual-course-of-business kind of thing.
22 I stipulated to a lot of Alloya business records, and these are
23 situations where they are trying to sort of analyze the
24 situation and cover a situation in a very evaluative way. It's
25 not a routine document that is kept in the ordinary course.

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1 And I think there are also kind --

2 THE COURT: Wait. Is the suggestion that -- there
3 might be a separate problem -- that business records can't
4 include evaluative documents?

5 MS. SANTILLO: Well, I think they were sort of trying
6 to cover themselves a little bit, in the sense of -- I think if
7 you read the documents, it's going to be clear what my problem
8 is, because they're very robust reports that have charts and
9 graphs about the lines of HOPE's business, and it has summaries
10 of interviews, and it's a report that they're drafting. And I
11 have an objection to that.

12 I may have some lines to draw in terms of the Bank
13 Secrecy Act and things like that, but in terms of the way that
14 she described them, just walking through what their reasoning
15 was for not doing business, I didn't see a problem with that.
16 What I'm objecting to is these reports that are in the
17 documents that I've identified. They're hearsay, and I think
18 they do not fall within the business records exception. That's
19 why I stipulated to lots of Alloya records under business
20 records but not this. I told them long ago that I had this
21 objection.

22 MS. CHOI: We understand that. And that's we only
23 stipulated as to authenticity with regard to certain of these.
24 But I do think -- and I think we articulated this to
25 Ms. Santillo at the time -- that so that long as we lay a

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1 proper foundation for these being business records, meaning how
2 was this document created, was it kept in its ordinary
3 course -- and most of these documents were created during their
4 assessment of exactly what was happening with regard to HOPE
5 FCU's ACH transactions, as part ever their jobs, as part of
6 their managing risk and setting up ACH and oversight for ACH
7 transactions within their credit union. I think it's hard to
8 say that any document that relates to that, that may contain
9 conclusions, can no longer be a business record, so long as the
10 foundation is appropriately laid out.

11 THE COURT: I think what would be useful, I think it's
12 helpful to identify the exactly documents. And I do think
13 folks need to think through and look at law, evidentiary law,
14 on the questions.

15 So the objections that are anticipated to the
16 documents that Ms. Santillo said, 723A, 723B, 724-1 and 724-2
17 and 724-5 -- do I have those right, Ms. Santillo?

18 MS. SANTILLO: 723A, 723B, 724, 724-1, 724-2 and 725.

19 THE COURT: Okay. I think a short written briefing
20 this evening on these documents, after you've looked at it and
21 discussed it, would be useful. I'm going to look at them but
22 I'll give you -- and this is on the hearsay and the business
23 records rule -- a Second Circuit case called Abascal,
24 A-b-a-s-c-a-l, 820 F.3d 561 (2d Cir. 2016) -- this is a
25 parenthetical description that I have, I need to look at it --

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1 finding that a prison-monitoring report by a private nonprofit
2 corporation, created on the basis of questionnaires, interviews
3 and personal observations, could not be admitted as a business
4 record, in part, because the creation of the report required
5 interpreting survey results and inmate interviews and then
6 creating a summary of the findings, a process that the Circuit
7 here concluded was a far cry from the simple act of recording
8 observable information, the type of regularly conducted
9 activity envisioned by the business records exception.

10 So you'll have to address that. Again, I have by no
11 means come to a conclusion; I'm just thinking through as I hear
12 it.

13 So it sounds like there are potential hearsay
14 objections that the government will need to address. And then
15 there may be 701 based objections. And, again, I have in mind
16 the United States versus Garcia and Bank of China case --

17 MS. CHOI: Your Honor, could we get the cites for
18 that, just to make sure we have the right ones? If they're
19 obvious, we can get them but I didn't know if you had them
20 handy. We have Garcia. The law people are telling me they
21 have them.

22 THE COURT: You don't want me to be your law clerk?

23 MS. CHOI: Well, I don't think I'll ever get a law
24 clerk but --

25 THE COURT: Well, I happen them here. I was reading

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1 them.

2 MS. CHOI: I wonder if you had them handy.

3 THE COURT: United States versus Garcia is 413 F.3d
4 201 (2d Cir. 2005). Bank of China is 359 F.3d 171, (2d Cir.
5 2004). It's discouraging to me that you don't know those
6 cases.

7 MS. CHOI: I don't know a lot of things,
8 unfortunately.

9 THE COURT: You may see you have some difficulties
10 with some of this evidence.

11 MS. CHOI: Okay. Understood, your Honor.

12 THE COURT: My clerk wants me to give you more
13 citations.

14 I haven't read these today. United States versus Cuti
15 C-u-t-i, 720 F.3d 453, which is a 2013 -- I recall this one
16 now -- 2013, a Second Circuit case, and United States versus
17 Rigas, 490 F.3d 208, 2007.

18 MS. CHOI: Those I have heard, your Honor. I'll look
19 into it.

20 THE COURT: I think the way to do this is: It's the
21 defendants' objection, so you'll do a short letter brief and
22 then the government can respond to it.

23 We've got the specific documents in mind, which is
24 very helpful, so I can look at these as I consider your
25 arguments. And there will be, I think, what's been discussed

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1 as potential 701 issues around anticipated testimony but,
2 again, as you've described it, I think we're within the realm
3 of the possible, but you will need to have your relevant Second
4 Circuit law in mind and, of course, the text of the rule in
5 mind as we consider where that line should be drawn.

6 Other matters to take up, Counsel?

7 MR. KLINGEMAN: Can I just ask a question about this
8 last matter: Does this mean the Alloya folks are not coming
9 tomorrow?

10 MS. CHOI: No, I think the Alloya folks are coming.

11 THE COURT: It sounds like they'll be after?

12 MS. CHOI: They will after Mr. Hill, I think, given
13 Mr. Creizman's scheduling.

14 MR. KLINGEMAN: Okay.

15 THE COURT: And we may not get through both of them in
16 their entirety, it sounds like, depending on Mr. Shin's ability
17 to not disappoint me tomorrow.

18 Anything else I can take up?

19 Do we need to talk about timing? When will we see a
20 letter, Ms. Santillo? No time like the present.

21 MS. SANTILLO: I'll try to do it fast. 8:30.

22 THE COURT: And then a couple hours after that I'll
23 hear from the government.

24 MS. CHOI: I think we can get that to happen, your
25 Honor.

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1 THE COURT: What's that?

2 MS. CHOI: I think we can get to that happen, your
3 Honor.

4 THE COURT: Terrific. I'll be up, I'll be reading.

5 If you would, cc Mr. Rosen. As we discussed, do ECF
6 filing unless there's some reason not to, but send a courtesy
7 PDF to chambers with cc to Mr. Rosen so that it's easy for him
8 to get to me.

9 Anything else, folks? All right, see you at 9:00.
10 Have a good night.

11 (Adjourned to February 24, 2017 at 9:00 a.m.)

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